

# **SIERRA LEONE REPARATIONS PROGRAM**

## **The Limits of Good Intentions**



University of Oslo

Faculty of Law

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Candidate number: 8025

Supervisor: Jemima Garcia-Godos

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*To victims of the conflict in Sierra Leone, who met me with open arms and hearts,  
demonstrating the true meaning of what it means to be a survivor.*



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# TABLE OF CONTENTS

Dedication

Acknowledgements

Table of Contents

Abbreviations

<b><u>1</u></b>	<b><u>INTRODUCTION.....</u></b>	<b><u>1</u></b>
1.1	Research objective and questions .....	1
1.2	Relevance of study.....	2
1.3	Scope and limitation of the study .....	3
1.3.1	Scope.....	3
1.3.2	Limitations .....	5
1.4	Literature review .....	6
1.5	Methodology .....	8
1.5.1	Empirical vs. normative.....	8
1.5.2	Field research .....	9
1.5.3	Reviewing international and national human rights law and commentary.....	13
1.6	Structure of thesis .....	15
<b><u>2</u></b>	<b><u>SIERRA LEONE.....</u></b>	<b><u>17</u></b>
2.1	Background to the conflict in Sierra Leone.....	19
2.1.1	Nature of conflict and atrocities .....	20
2.1.2	Establishment of the Truth and Reconciliation Commission .....	21
2.1.3	Establishment of Sierra Leone’s Reparations Program .....	22

<b><u>3</u></b>	<b><u>VICTIM REPARATIONS .....</u></b>	<b><u>25</u></b>
<b>3.1</b>	<b>International concept of reparations.....</b>	<b>25</b>
<b>3.2</b>	<b>International justifications of reparations.....</b>	<b>28</b>
3.2.1	Legal justification for reparations .....	29
3.2.2	Socio political justifications for reparations.....	32
<b>3.3</b>	<b>Challenges for reparation programs .....</b>	<b>33</b>
<b>3.4</b>	<b>Means of assessing success of reparation programs .....</b>	<b>35</b>
<b><u>4</u></b>	<b><u>SIERRA LEONES REPARATION PROGRAM.....</u></b>	<b><u>37</u></b>
<b>4.1</b>	<b>Victims vs. beneficiaries in Sierra Leone.....</b>	<b>37</b>
<b>4.2</b>	<b>Sierra Leone’s definition of reparations .....</b>	<b>40</b>
<b>4.3</b>	<b>Legal and institutional structure of Sierra Leones Reparation Program.....</b>	<b>41</b>
<b>4.4</b>	<b>Funding of Sierra Leones Reparation Program.....</b>	<b>44</b>
4.4.1	Special Fund for War Victims.....	45
4.4.2	PBF .....	46
<b>4.5</b>	<b>Institutional organization of Sierra Leones Reparation Program .....</b>	<b>47</b>
4.5.1	PBF as monitoring body .....	48
4.5.2	IOM as recipient body .....	48
4.5.3	NaCSA as service providers .....	49
4.5.4	The Year-One Project.....	49
4.5.5	Implementation of a long-term reparation program .....	52
<b>4.6</b>	<b>Establishing a victim database.....</b>	<b>53</b>
<b>4.7</b>	<b>Amputee beneficiaries .....</b>	<b>55</b>
4.7.1	Definition of amputee eligible for reparation.....	56
<b>4.8</b>	<b>Reparations for amputees .....</b>	<b>58</b>
4.8.1	Basic reparations for amputees .....	59



4.8.2	An effort to create relief?.....	60
<b><u>5</u></b>	<b><u>VICTIM TESTIMONIES.....</u></b>	<b><u>ERROR! BOOKMARK NOT DEFINED.</u></b>
5.1	Selection criteria used for interview candidates.....	61
5.2	Victim statement: 1.....	62
5.3	Victim statement: 2.....	65
5.4	Victim statement: 3.....	66
5.5	Victim group analysis .....	67
<b><u>6</u></b>	<b><u>ASSESSING SLRP.....</u></b>	<b><u>69</u></b>
<b><u>7</u></b>	<b><u>CONCLUSION.....</u></b>	<b><u>71</u></b>
	<b><u>BIBLIOGRAPHY .....</u></b>	<b><u>75</u></b>
	<b><u>ANNEX .....</u></b>	<b><u>A</u></b>
	Victim statement: 4.....	A
	Victim statement: 5.....	B



## Abbreviations

APC	All Peoples Congress
AWWA	Amputees and War-Wounded Association
DDR	Disarmament, Demobilization, and Reintegration
GC	General Comment
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICTJ	International Center for Transitional Justice
IOM	International Organization for Migration
NaCSA	National Commission for Social Action
NGO	Non-Governmental Organization
PBF	United Nations Peacebuilding Fund
RUF	Revolutionary United Front
RTF	Reparations Task Force
SL	Sierra Leone
SLIS	Sierra Leone Information System
SLRP	Sierra Leone's Reparation Program
SFWV	Special Fund for War Victims
TRC	Sierra Leones Truth and Reconciliation Commission
UN	United Nations
UNAMSIL	United Nations Mission in Sierra Leone



## **1 Introduction**

The decade long civil war in Sierra Leone (to be referred to as SL) gave rise to massive violations of human rights. Post-conflict, the state has deployed various mechanisms to address demands for accountability. This thesis will aim to examine key issues and debates regarding connections between human rights norms relating to victim reparations and their implementation. There will be a theoretical and practical examination. Key legal sources and obligations arising in both international human rights law and international humanitarian law will be reviewed from a practical standpoint. By using an interdisciplinary approach of international law, social sciences, and anthropology, this thesis will address the challenges towards establishing an appropriate reparation program for amputees in SL.

### **1.1 Research objective and questions**

The objective of this thesis is to analyze basic concepts of victim reparations and the failure of implementing a sustainable reparations program for victims in SL eight years after the decade long civil war.

Throughout the thesis 5 key questions will be addressed:

1. Does international human rights law support reparation, and if so, do they obligate countries to provide them in post-conflict settings?
2. What do victim reparations schemes aim to achieve? Could these aims be achieved in SL?
3. How does the structure of Sierra Leone's Reparation Program (SLRP) effect its implementation?

4. What are the grave challenges to implementing an efficient and accountable reparation program in SL? Are these external or internal factors?
5. What are the implications of not providing prompt, adequate and efficient reparation in SL? What are the results of not providing life supporting mechanisms for amputees?

## **1.2 Relevance of study**

If gross human rights violations are not addressed and alleviated through the application of international norms, then international instruments can be viewed as futile in addressing the real and practical needs of victims. The practice of human rights is particularly challenging in societies emerging from conflict. However, practical challenges need to be addressed in order to implement justiciable human rights law. These statements are however, general and abstract. Exploring in-depth challenges to application are necessary to create sustainable approaches to implement human rights. This is because practice inevitable plays a large role in the theoretical restrictions of human rights.

SL's conflict was extremely brutal. Due to media influence, the brutality was well known to the world. Amputations, child soldiers, bush wives are of the main depictions of the forms of violence that took place. Yet, few know the situation of victims today, or the extent of trauma they persevered. There are 1,285 registered amputees in SL, but a real neglect in research means few know of their current situation. Considering the amount of attention and funding directed towards ex-combatants and to the process of peace itself, it is alarming to note this disparity. This thesis attempts to direct attention back towards victims, and open the eyes to the outside world to their traumas.

Throughout this thesis, readers will gain insight into how SL recognizes and attempts to rectify past wrongs, and understand challenges Government and victims face in establishing and implementing a credible national reparation program. Insufficient data, vague reports, and research of reparations in SL means that this thesis is an unprecedented accumulation of data and discussion with professionals, officials and victims regarding

reparation in SL. Hopefully this exploration will benefit practitioners, officials, and researchers, and bring new insight into creating a sustainable reparation program.

### **1.3 Scope and limitation of the study**

#### **1.3.1 Scope**

Studying post-conflicts settings are often challenging, and often analysis involves interdisciplinary approaches. Law, politics, geography, economics, development and conflict resolution are just a few of the many factors that can effect the questions posed to study. Yet, this is not the only challenge. Law, politics, geography etc. are in such primary stages in SL. This is due to the ravaging affects of the decade long civil war. Obviously these factors have a huge impact on the provision of reparation packages. However, the scope of this thesis will extend only to SL's existing commitment to provide reparations to amputee victims of the civil war. Taking this into consideration, this thesis will analyze the practical ability of providing reparations to amputee victims. Reparations in SL will be viewed in the light of practical enforceability and implementation of international norms and regulations in a post-conflict setting.

Reparation itself is also an interdisciplinary field. Reparations and victims in this thesis will be defined using SL's official definitions taken from the findings of its Truth and Reconciliation Commission (TRC). Reparations comprise an array of various programs and projects in SL considering the vast amount of victims. However in this thesis we are focusing on the reparations program directly targeting the most vulnerable victims of SL's civil war. The term victim used throughout the thesis will be considered in the same light.

The focus of the thesis shall be on the amputee's victims within the most vulnerable victim group. This is an identifiable victim group due to the visible evidence of torture on their bodies. The SLRP defines Amputees as "war-wounded victims who lost their upper

or lower limbs as a result of the conflict.”<sup>1</sup> The amputee victim group is made up of victims of war from 1991 up until the end of the conflict in 2002.<sup>2</sup> There are four main reasons for this choice. Firstly, the war in SL was notorious for being extremely brutal, the use of child soldiers and the atrocious use of amputation as tactic of warfare are often what people associate with SL. By limiting the field of study towards amputees, we are able to analyze how attention to one of the most vulnerable groups progressed since the end of the conflict. Secondly, access to information is extremely limited, partially due to lack of telecommunications infrastructure and high rates of illiteracy,<sup>3</sup> therefore gathering data from a victim group which has an organizational structure, such as the Amputee and War Wounded Association (AWWA), is more achievable. All members of AWWA had been officially recognized by the Government as either amputee victims or seriously war wounded.<sup>4</sup> Thirdly, due to their disabilities, this victim group is in dire need of continuous medical care and support to deal with their wounds from violence. Not only have they had their bodies dismembered, but there is also a very high rate of other bodily harm from prolonged incidents of torture, leaving other sources of chronic pain.<sup>5</sup> Fourthly, their disability makes it very difficult to find other sources of income as even achieving independence to do daily tasks, such as dressing, washing, or making food is challenging. They are dependent on family, or a governmental support system.<sup>6</sup>

The thesis will look at amputees from all over SL, as they are in various locations throughout the country, because the rules and procedure of the reparation program are equal for all victims.

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<sup>1</sup>TRC (2004) p.249

<sup>2</sup>Ibid. p.4

<sup>3</sup>[National Long Term Perspective Studies, SL?] (2004) p.15

<sup>4</sup>Jarka (2009)

<sup>5</sup>Field Research

<sup>6</sup>Ibid.



### 1.3.1.1 Time frame

The timeframe for the period to be analyzed in this thesis expands from the publication of the TRC report in 2004 (2 years after the formal end of the conflict), and up until December 2009, the final end date of SLRP Year One Project.

### 1.3.2 Limitations

As one can imagine there are several limitations to take into account while preparing a thesis on SL. Not only is SL one of the poorest countries in the world<sup>7</sup>, but it is in transition from a brutal civil war. This had and continues to affect the quantity and quality of data available for use.

International norms, laws and definitions will be used to clarify the concept of victim reparation. This will be taken from international experts of victim reparation, and law. The main source of international law will be *The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (to be referred to as Basic Principles). The Basic Principles will be used to address potential limitations that face the SLRP. The Basic Principles versus the concept of reparation in SL will be analyzed in Chapter 4.

In addition, there is no authoritative literature, as of yet, on the reparation scheme in SL. Literature on the current situation of victims is lacking, partially due to the difficulty of collecting reliable data on the subject. Conflicting reports and perceptions make it extremely difficult to objectify data. In addition, SL is extensively studied in transitional justice mechanisms such as the Special Court, and the situation of child soldiers. The lack of meaningful discussion between experts on the practice of reparations in SL leaves its imprint on the thesis. Project documents from the United Nations Peacebuilding Fund (PBF) and reports by the International Center for Transitional Justice (ICTJ) provide an

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<sup>7</sup>UNDP (2009)

overview of the achievements and challenges facing the SLRP. However, in order to provide a more in-depth analysis amputee victims have been extensively interviewed to identify and personify victim reparation. Interviews with all engaged/affected actors aim to provide a holistic overview concerning reparations in SL.

An additional limitation is the minimal focus of reparations in national media and society in general. Interviews were also conducted with members of civil society, government, and international NGOS, and demonstrated little awareness of SLRP's content. Amputee themselves have formed an association lobbying for benefits, in addition to a Norwegian organization<sup>8</sup> working alongside the government that has provided housing and medical care to amputee victims. This thesis will not necessarily address these provisions as they are not explicitly stated in the agenda of the national reparation program until 2010.<sup>9</sup> The structure of the national reparation program will be the focus of this thesis, as this is clearly identified and approved by the Government. In addition, symbolic effects of providing reparations to victims will not be included.

## **1.4 Literature review**

Even if literature on the particular subject of reparations in SL is lacking, SL has committed itself to a reparations scheme based on the recommendations of the TRC report. The TRC report recommendations to provide social service packages to the most vulnerable victims of the conflict were based upon international norms and opinions.<sup>10</sup> On this framework, the TRC report provides valuable information on the usage of international norms and accommodating them to the abilities and practicability of SL to provide reparation. The TRC report, published in 2004, will be a main source in this thesis, as it is the authoritative source of the history and complexities of the conflict.

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<sup>8</sup>The Norwegian Friends of SL (NGO) provides housing for amputees. <http://www.slvenner.no>

<sup>9</sup>Schanke (2010)

<sup>10</sup>TRC (2004) p.242

Other literature that will be used throughout the thesis will be provided by expert opinions such as *The Handbook of Reparations*,<sup>11</sup> which is a practical guide for analyzing reparations and their concepts in international law, theory and practice. *Transitional Justice*<sup>12</sup> also provides valuable contribution to the main concepts of victim reparations. These will supplement the thesis by attempting to identify practical challenges when applying international concepts of reparations. As stated in the scope and limitation, reparations consist of a wide array of arrangements. This is also accentuated in collected literature. Therefore emphasis will be placed on analyzing the background for applying reparations in post-conflict settings.

International law and commentary is drawn from human rights law, international humanitarian law, and studies conducted by Special Rapporteurs in relation to providing reparations in post conflict societies. References to these reports will be stressed in the methodological section. These will guide in establishing general international norms and understanding the concept of reparation. This along with other literature such as the book *International Criminal Tribunals and Victims of Crime*<sup>13</sup>, arguing that international law obliges states to pay victim compensation.

Press report, project documents, and reports play a valuable role in identifying strength/weaknesses of SLRP's operations. However, reading was undertaken with skepticism due to non-objective nature of these types of documents. Documents were often crafted with specific intentions, thus it was essential to balance reports against each other throughout the thesis.

Literature was also essential in formatting and conducting successful field research. Books such as *Writing for Scholars*<sup>14</sup>, *Fieldwork under Fire*<sup>15</sup>, and *Surviving Field Research: Working in violent and difficult situations*<sup>16</sup>, were essential to collecting viable

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<sup>11</sup>*The Handbook of Reparations* (2006)

<sup>12</sup>Teitel (2000)

<sup>13</sup>Heikkila (2004)

<sup>14</sup>Nygaard (2008)

<sup>15</sup>Fieldwork Under Fire (1995)

<sup>16</sup>Surviving Field Research (2009)

data, and making sure ethical questions surrounding collecting data were addressed. This will be elaborated further in the methodology section below as to what were the concerns of data collection.

## **1.5 Methodology**

The thesis is of an interdisciplinary nature, and therefore collecting information will be reflected in the methodology. In order to combine law, social sciences and anthropology in cohesive manner, normative values will be examined in Chapter 3. The structural organization of the reparations program (Chapter 4) will be balanced against the empirical data in the form of testimonies and interviews (Chapter 5). Before finally, Chapter 6 assesses SLRP against Basic Principle's objectives, to assess if SLRP meets international reparation standards.

### **1.5.1 Empirical vs. normative**

The methodology used places normative international values of reparation payments against the practical empirical data collection. The aim of the research is to combine field research, international human rights law, and relevant literature to provide an in depth analysis of the questions listed in section 1.1. This will produce vital insight towards accumulating ideas and results that can properly tackle the complex research objective of this thesis.

### 1.5.2 Field research

Field research was conducted June-August 2009. The objective of the field research was to provide insight into the actual conditions of amputees in SL, and capture the range of views and actors engaging in, and affected by reparation policies. In addition, field research was to compensate for the lack of victim group statements, access to legal documents, official statistics and opinions. There were two separate groups of interview candidates.

The first group consisted of candidates initially chosen for their strong involvement within the community in the form of civil advocates, lawyers, government officials, and high moral standing within SL. These are also persons with great insight into how the country works. The candidates created a ‘snowball sampling’ effect<sup>17</sup>, meaning trust relationships with additional contacts were established by association. Initial candidates in this group were organizations or individuals that were known to the researcher personally, recommended, or mentioned in reports. They then suggested others that could be useful to talk to. In total there 15 interviews conducted in this group.

The second group of interview candidates consisted of victims directly affected by the SLRP. Locating victims required working with victim organizations, and local contacts. The assistant field researcher was extremely useful in these situations. Field excursions to potential victim groups were conducted on a weekly basis. This resulted in completing over 100 victim testimonies over a three month field research period.

There are many challenges to be confronted whilst collecting testimonies. The aim was to not subject collected data to unnecessary ethical scrutiny. Thus guidelines and research was prepared before commencing with the collection. This included investigating various research methods, and applying various means to the collection method.

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<sup>17</sup>Ibid. p.79

### 1.5.2.1 Collection method

When interviewing victims a questionnaire survey was provided alongside a conversational style format. This method was chosen after conferring with other researchers working in similar conditions.<sup>18</sup>

Discussion groups were not established. The nature of the testimonies wished to be considered a subject of private matter according to many victims, and was therefore not a viable option.

A questionnaire provided opportunities to take as many samples as possible in the short time spans, and locate trends of varying viewpoints. A research team was not used to ensure full personal responsibility over the data. This meant that a questionnaire was completed after introducing the project and researcher's background, emphasizing her position as a student of SL, also assuring full anonymity over the interview, before requesting consent. As many of the interviews took place in rural settings, various translators were used in the interviewing process.<sup>19</sup> After completing surveys, interviews continued in conversational mode. This was due to demand, as all of the interviewees wanted to share their stories.<sup>20</sup> If the questions in the duration of the interview were deemed too emotionally upsetting for the participant, the interview would stop. As there was no follow-up support available, interviews were only permitted to take place in a voluntary stable setting. The difficult decision to conduct conversational interviews was primarily based on the opinion that as a young researcher it would be ignorant to assume that one had all the answers in a simple questionnaire.

A questionnaire format was not used whilst conducting non-victim interviews.

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<sup>18</sup>Doctors Without Borders (2000)

<sup>19</sup>They were untrained translators, but were persons recommended by interviewees that could speak fluent english.

<sup>20</sup>Often the first interview recounting their experiences to a foreigner. Registration to SLRP contains brief accounts of experiences. There is full list of SL victim testimonies.

Thorough background research, and prepared guiding questions were used when speaking to various candidates. However, discussion and debate were encouraged in these settings to allow for viewpoints to emerge and to discourage mechanic responses. Prior investigations, local contacts, and a research assistant aided in the pursuit of finding a varying degree of candidates to interview on the topic of reparations. The same procedure of debriefing was used in these circumstances, however anonymity was not spared, and a contact card was given in order to allow for further questions and/or instill a trust to the researcher.

#### **1.5.2.2 Methodological challenges**

The methodological challenges in the stages of conducting interviews were multifaceted. Objectivity of data is crucial in order to avoid scrutiny of the research, however, the reality is that lack of official statistics, media coverage, and conflicting opinions make ‘truth’ difficult to find. Whilst conducting interviews there were several dilemmas. One particular problem was the issue of payment. Most of the victims live in abject poverty, therefore compensating their time at work to conduct free interviews, retelling their testimonies of torture, was unfavorable. However, the budget for research was minimal, and objectivity of data may be tampered if it could be argued that victims said what the researcher paid for. A decision was made to provide free lunch. This arrangement is common practice amongst other research teams in SL.

Prior to conducting field research, several ethical and practical matters had to be addressed to meet the needs and expectations of not just the research objective, but also the participants. The needs and expectations of the participants were often already predetermined considering that the researcher is Caucasian, young female, foreign, western, privileged, and inexperienced in data collection of this kind. Yet emphasis was placed upon the researcher as a student, unable to give financial assistance, change political policies, and wary of making false promises. However, it was not only the objectivity of the testimonies that could be compromised.

The victims, whom were being interviewed, were subjected to grave amounts of torture. As an untrained psychologist, these interviews undoubtedly left their mark on the researcher.<sup>21</sup> Gaining emotional trust from participants so that they feel comfortable retelling their stories was essential. Many participants became very emotional during the interviews, but were continuously informed that this was a voluntary interview and could stop at any time if too difficult. It was a fragile balancing act, because there was no intention of disrupting emotional states, as recounting grave incidents of trauma without providing a means of compensation could be damaging. Every interview was based on personal evaluations, conducted in a private area, and with translators briefed on their role in the proceedings.

However, as “Lewis and Weigert explain, ‘when we see others acting in ways that imply they trust us, we become more inclined to reciprocate by trusting in them more.’”<sup>22</sup> Even though the purpose was to be objective, and as open minded as possible, amputees are a victim group with an obvious disability. Their wounds are not only psychological, but left them unable to physically function properly. Observing scars from burns, stabbings, beatings, amputations, bullet wounds, and mutilations verify their stories. Their trauma might affect their memories as “people experience, remember and recount violence through the lens of their own victimization.”<sup>23</sup> Yet, their daily realities are not discredited by the possible inability to recount experiences. In addition, their voice/opinions over the lack of sufficient reparation are crucial, because amputees are one of the main target groups.

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<sup>21</sup>No psychological support for the researcher could affect objectivity.

<sup>22</sup>Surviving Field Research (2009) p.73

<sup>23</sup>Ibid. p.155



### **1.5.3 Reviewing international and national human rights law and commentary**

In reviewing the legality of reparations, emphasis was placed on highly regarded instruments, documents or commentary that have been accepted internationally as a norm or custom as there is not yet an international treaty that directly focuses on reparations. There has been much study and references to reparations in international law. National human rights law pertaining to reparations is weak, but 5 references will be used: The Constitution of SL, Lomé Peace Agreement, TRC Act, TRC report, and National Commission Social Action (NaCSA) Act.

#### **1.5.3.1 International human rights law and commentary**

The below references will be used as framework for investigation in Chapter 3. These sources will be essential to analyzing SL's justification for pursuing a reparations program, and to determine SLRP's success.

#### **Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law**

**International Covenant on Civil and Political Rights (ICCPR) Art.2(3)(a):** "Each State Party...undertakes to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy..."

#### **International Covenant on Civil and Political Rights General Comment No.31**

Nature of the General Legal Obligation Imposed on States Parties to the Covenant

**International Convention on the Elimination of All Forms of Racial Discrimination** (ICERD) Art.6: "States Parties shall assure to everyone within their jurisdiction effective protection and remedies...as well as the right to seek just and adequate reparation or satisfaction..."

**Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** (CAT), Art.14: "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible."

International Humanitarian Law based on Internal Armed Conflict is not applicable due to the lack of references to reparations in it.

#### **1.5.3.2 National human rights law and commentary**

National law and text is essential to review in establishing obligations to provide reparations in a timely and expedient matter. Unfortunately there are no concrete references to reparation for civil-war victims in SL domestic law. According to PBF's annual project report, the SLRP was amended into the NaCSA Act in 2009. However the official document was not available at the date of writing. There are three legal texts that are possible sources of reparations in domestic law. Sources are the Constitution of SL, Lome Peace Agreement, TRC Act of 2000, and TRC Report 2004.

The 1991 Constitution of SL, chapter 3, provides a list of fundamental human rights and freedoms such as right to life, inhuman treatment, and section 28(1) allows victims of fundamental human rights abuses to seek redress.<sup>24</sup>

The Lome Peace Agreement Article XXVI, recommends a TRC. "This Commission shall, among other things, recommend measures to be taken for the rehabilitation of

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<sup>24</sup>Constitution of SL (1991)

victims of human rights violations.”<sup>25</sup> TRC Act of 2000<sup>26</sup>, which mandates TRC into domestic law, permits TRC (in Section 15(2)), to “make recommendations concerning the reforms and other measures, whether legal, political, administrative or otherwise, needed to achieve the objective of the Commission.”<sup>27</sup> The TRC Act does not explicitly mention reparations, however it lists the objective of TRC as three folded; “preventing the repetition of the violations or abuses suffered, responding to the needs of the victims, and promoting healing and reconciliation.”<sup>28</sup> In section 6(2)(b) the Commission was required to “work to help restore the human dignity of victims and promote reconciliation.”<sup>29</sup> An obligation to provide reparations to recognize the harm suffered could constitute a reparation program. The TRC report, published July 2004, acknowledges this and directly recommends Government to establish a reparations program.

The TRC Report recommendation is based upon references to international law and commentary, and domestic law such as the constitution. To fulfill Government obligations to the Lome Peace Agreement, TRC recommendations must be implemented. Government through NaCSA launched a reparations program on the 30<sup>th</sup> of January 2009.<sup>30</sup> Displaying the TRC Report’s legal influence and legally binding nature.

## **1.6 Structure of thesis**

The thesis is organized in a manner to provide a balanced discussion of what ‘reparation’ entails from a theoretical and practical viewpoint in SL. Chapter 1 introduces the reader to the objective and justification of research, while describing the methods and means of attempting to answer research questions. Chapter 2 reviews the background of

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<sup>25</sup>Lome Peace Agreement Art.XXVI (1999)

<sup>26</sup>TRC Act (2000)

<sup>27</sup>TRC (2004) p.228

<sup>28</sup>TRC Act (2000)

<sup>29</sup>TRC Act (2000)

<sup>30</sup>Koroma (2009)

SL's conflict and the establishment of transitional justice mechanisms such as the TRC and SLRP in order to describe the purpose for having a reparation program in SL. Chapter 3 looks at the concept of victim reparations. International law and commentary and justification for reparation will be analyzed. By reviewing the reasons for reparation we can then analyze what determines successful reparation programs. Chapter 4 looks at SLRP's working definitions, structure and benefits, before specifically addressing amputees. Reparations and their implications will then be analyzed from a practical standpoint. Chapter 5 provides amputee victim testimonies, and an assessment of their current situation, as a means of drawing the abstract concept of reparations into a real context. Chapter 5 will analyze if Basic Principles objectives have been fulfilled, and what challenges face SLRP. Concluding remarks and comments will then be made in Chapter 7 referring also to restrictions and future implications of this thesis.

## 2 Sierra Leone



Map 1 Sierra Leone<sup>31</sup>

<sup>31</sup>Source: [http://www.lib.utexas.edu/maps/africa/sierra\\_leone\\_pol\\_2005.jpg](http://www.lib.utexas.edu/maps/africa/sierra_leone_pol_2005.jpg)

SL lies on the west coast of Africa, sharing borders with Guinea and Liberia neighboring countries that have also experienced recent or ongoing conflict. Diamonds, titanium ore, bauxite (primary source of aluminum), iron ore, gold, chromite, and rutile are some of the extremely rare and valuable natural resources that SL has. Yet 70% of the population remains under the poverty line, making it alongside its neighbors, one of the poorest countries in the world. Within SL's extreme poverty, there is tremendous inequality in income distribution. This is because even though it

possesses substantial mineral, agricultural, and fishery resources, its physical and social infrastructure is not well developed, and serious social disorders continue to hamper economic development...The fate of the economy depends upon the maintenance of domestic peace and the continued receipt of substantial aid from abroad, which is essential to offset the severe trade imbalance and supplement government revenues.<sup>32</sup>

Unfortunately, SL ranks very poorly on world rankings for corruption<sup>33</sup>, life expectancy at 39 years<sup>34</sup>, GDP per capita \$900<sup>35</sup>, and is even described by the UNDP as one of the worst places to live<sup>36</sup>. However, means and measures by the new government elected in 2007<sup>37</sup> are directed at tackling widespread corruption<sup>38</sup>, and making SL attractive to investors.<sup>39</sup> For now, SL is dependent on donors, for around half of its annual budget, and is more or less as poor and undeveloped as it was after the war ended.<sup>40</sup>

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<sup>32</sup>CIA World Factbook (2010)

<sup>33</sup>Transparency International (2009)

<sup>34</sup>SLHCUK (2010)

<sup>35</sup>CIA World Factbook (2010)

<sup>36</sup>[BBC News?] (5/10/2009)

<sup>37</sup>SLHCUK (2010)

<sup>38</sup>[BBC News?] (27/01/2010)

<sup>39</sup>[BBC News?] (23/11/2009)

<sup>40</sup>Roughneen (2009)

## 2.1 Background to the conflict in Sierra Leone

23<sup>rd</sup> March 1991 marked the beginning of the civil war in SL.<sup>41</sup> Forces calling themselves the Revolutionary United Front (RUF) crossed the border from Liberia into SL from the east, “heralding the beginning of a decade of violence that devastated the country”.<sup>42</sup> The declared main purpose of the RUF was to overthrow the corrupt and tyrannical government of the political group All Peoples Congress (APC) which had ruled since 1968.<sup>43</sup> The goals of the RUF were shared views of many Sierra Leoneans. “Many were frustrated by years of dictatorship and by the descending spiral of poverty and underdevelopment...”<sup>44</sup> However, these aspirations lost legitimacy as soon civilians became targets of the “worst forms of human rights abuses.”<sup>45</sup> Several armed groups were involved in the conflict. Even though the TRC found the “RUF to have been responsible for the largest number of human rights violations”, all parties to the conflict were guilty of directly targeting civilians.<sup>46</sup> This made it difficult to distinguish different armed groups from each other, making the fighting politically senseless. The fighting was officially declared over in 2002, after three failed attempts at peace processes.<sup>47</sup> The formal beginning of the end of the conflict was the Lome Peace Agreement of 7 July 1999 instigated after a devastating attack called “Operation No Living Thing” left Freetown in ruins.<sup>48</sup> The name, “No Living Thing” itself demonstrates how unnervingly violent this conflict was. “A death toll of around 50,000 did not tell the full story of a conflict where much of the fighting was carried out at close quarters.”<sup>49</sup>

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<sup>41</sup>*Transitional Justice in the Twenty-First Century* (2006) p.22

<sup>42</sup>TRC (2004) p.7

<sup>43</sup>Ibid.

<sup>44</sup>*Transitional Justice in the Twenty-First Century* (2006) p.22

<sup>45</sup>*War, Conflict and Human Rights* (2010) p.84

<sup>46</sup>TRC (2004) p.31

<sup>47</sup>*War, Conflict and Human Rights* (2010) p.84

<sup>48</sup>*Transitional Justice in the Twenty-First Century* (2006) p.23

<sup>49</sup>Roughneen (2009)

### 2.1.1 Nature of conflict and atrocities

The nature of the conflict in SL seems to be linked to directly and purposely violating laws of war and disrespecting any international law by all parties. Civilians were directly targeted in brutal campaigns of terror, transforming them into objects of war. “The overwhelming majority of atrocities were committed by Sierra Leoneans against Sierra Leoneans. The conflict was essentially self-destructive in character.”<sup>50</sup>

Amputation, forced cannibalism, abduction, forced recruitment, sexual slavery, drugging, forced labor, assault, torture, rape, arbitrary detention, looting and destruction of property, extortion, forced displacement, killing, and cannibalism are the different categories of violations that the TRC have recognized.<sup>51</sup> Often civilians were victims to more than one of these violations at the same time, or at different time periods of the war. Of those that reported to the TRC, 23% of reported victims of forced recruitment, rape and sexual slavery were children under the age of 13.<sup>52</sup> 2 million people were internally displaced after the war, out of the total population figure of 4.5 million.<sup>53</sup> The full extent of the brutality will never be understood, as before SLRP’s registration process there were only meager, and undeveloped victim statistics available. The registration of victims is therefore an extremely challenging process.

According to ICTJ, NaCSA has registered 1,285 amputees in SL.<sup>54</sup> The head of AWWA, Alhaji Jusu Jarka, estimates that 1 out of 5 amputee victims managed to survive, and current numbers are dwindling due to extreme poverty, suicide and high risk of disease.<sup>55</sup> All armed groups participated in amputating limbs as a means of instilling fear. However, amputations were not a constant feature of the prosecution of the war but used in campaigns. For example leading up to the election in 1996, the RUF terrorized civilians,

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<sup>50</sup>TRC (2004) p.34

<sup>51</sup>*War, Conflict and Human Rights* (2010) p.93

<sup>52</sup>TRC (2004) p.38

<sup>53</sup>Handicap International (2010)

<sup>54</sup>Suma and Correa (2009) p.9

<sup>55</sup>Jarka (2009)



and used amputations as a symbol of taking away their ability to vote, because “how will you vote with no hands”.<sup>56</sup> Lack of immediate medical assistance meant many victims died shortly afterwards, whilst those who survived managed to go hours, days or, in rare cases, weeks without proper medical attention.<sup>57</sup> On the 22<sup>nd</sup> of February 2000, the SL Parliament established a TRC “to create an impartial historical record of violations and abuses of human rights...to respond to the needs of the victims and to promote healing and reconciliation...”<sup>58</sup>

### **2.1.2 Establishment of the Truth and Reconciliation Commission**

The Lomé Peace Agreement of 7<sup>th</sup> July 1999, between the Government of SL and the Revolutionary United Front of SL pledged the establishment of a TRC to be set up within ninety days. The TRC was a creation of the Parliament of SL through the TRC Act<sup>59</sup>, but financing came from international donors (even though initially budgeted for 10million dollars it only received 4million dollars<sup>60</sup>). Inspired by other TRCs around the world, its agenda was to address key questions surrounding the war and report atrocities, and to “recommend measures to be taken for the rehabilitation of victims of human rights violations.”<sup>61</sup> The report issued in 2004, was presented to the government and people of SL to provide “introspection and a retrospective examination of the political, historical, economical, social and moral activities of both the state and the nation”<sup>62</sup> in order to prevent the war from ever reoccurring. Under section 17 of the TRC Act:

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<sup>56</sup>*War, Conflict and Human Rights* (2010) p.86

<sup>57</sup>Interview Statistics

<sup>58</sup>TRC Act (2000)

<sup>59</sup>TRC Act (2000)

<sup>60</sup>Schabas (2006) p.23

<sup>61</sup>TRC (2004) p.228

<sup>62</sup>TRC (2004) p.10

[t]he Government shall faithfully and timeously implement the recommendations of the report that are directed to state bodies and encourage or facilitate the implementation of any recommendations that may be directed to others.<sup>63</sup>

The implementation of TRC recommendations is an indicator of Government's commitment to upholding its obligations under the Lome Peace Agreement, thus vital in demonstrating Government's long-term commitment to upholding peace in SL.

### **2.1.3 Establishment of Sierra Leone's Reparations Program**

One of the recommendations of the TRC was to create a reparation program, but only for those victims who were particularly vulnerable "because of the human rights violations they had suffered and the harm that they continued to live with."<sup>64</sup> However, to achieve a reparative effect on victims, reparations have to be provided by the Government whilst acknowledging and recognizing violations. 7707 statements were received by the TRC, and by carrying out a random sampling of statements the needs of victims were identified and ranked. Socio-economic rights such as housing, education, and health were of primary concern for victims in the poll. However victim needs must be balanced out against feasibility of the program. Therefore the reparations program was limited to victims who are in urgent need of assistance such as amputees, war wounded, sexual abuse victims, and special categories of children. Their injuries must have been occurred from 23 March 1991 up until 1 March 2002.<sup>65</sup>

Based on these recommendations, the Government of SL, through NaCSA (the agency allocated responsibility for implementation) launched its reparation program on 30<sup>th</sup> of January 2009.<sup>66</sup>

The program will largely focus on the rehabilitation of victims through the delivery of social service packages and symbolic measures which acknowledge the past, the

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<sup>63</sup>TRC Act (2000)

<sup>64</sup>TRC (2004) p.230

<sup>65</sup>TRC (2004) p.245

<sup>66</sup>Koroma (2009)

harm done to victims, and empower them to rebuild their lives.<sup>67</sup>

The benefits for the most vulnerable victims will be within the following areas: healthcare, education, skills training and microcredit, pensions, micro grants, fistula surgery, psychosocial support, housing, community and symbolic reparations, but since most of these require further planning and additional resources they will be delayed until more planning is complete and funding is provided. Even so, The SLRP has promised more basic measures to be put in place within the first year (2009) of the launch. Different victim categories will receive different benefits under their scheme depending on the nature of their injury or disability.<sup>68</sup> Chapter 4 will provide a description of the amputee victim group's provisions and applicability.

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<sup>67</sup>NaCSA (2009)

<sup>68</sup>NaCSA (2009)



### **3 Victim reparations**

In international law states have obligations to pay reparations for breaches of their legal obligations.<sup>69</sup> The same concept applies in international human rights law. States have obligations to pay reparations for breaches of their legal obligations to individuals, because human rights provide individuals protection under international law.<sup>70</sup> However, reparation as a concept is “not settled either in theory or in practice”.<sup>71</sup> Their content may be unclear, even though there is “broad agreement that victims of international core crimes have a right to reparations.”<sup>72</sup> Having said this, reparations have been interpreted into the legal systems of the world, and various approaches to the form and procedure of reparation payments exist.<sup>73</sup> For the purposes of this thesis, Chapter 3 will first investigate the concept and justifications for reparations. Then it will look at generally challenges and means of assessing reparations program. Working definitions from SL will be presented in Chapter 4.

#### **3.1 International concept of reparations**

Official definitions clarify obligations, but in order to understand the purpose of providing reparations it is necessary to explore their roots, albeit briefly due to the

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<sup>69</sup>Freeman (2007) p.38

<sup>70</sup>Gillard (2003) p.537

<sup>71</sup>De Greiff (2006) p.13

<sup>72</sup>Heikkila (2004) p.170

<sup>73</sup>Ibid. p.168

limitations of the thesis. The aim of this thesis is to assess if it is possible to apply international concepts of reparations to SL.

The concept of reparations has a long history if looked at from international law between warring states. Yet reparations by states to individuals relates to the more recent development of human rights law. “Human Rights Instruments generally refer to the obligation of states to provide effective remedies for human rights violations.”<sup>74</sup> It can often be mixed in with other transitional justice measures.<sup>75</sup> The broad use of the term reparations furthers its perplexity. However, in this thesis we will work from its most simple form by recognizing that reparations are the act of correcting a wrong. Reparations ideally should restitute. The aim of restitution is to restore the situation that existed before the wrongful act was committed.<sup>76</sup>

Human rights law is a normative context. The official definitions show that victims and their supporters are favored in their insistence that reparations are a part of a “new political regime of ‘fairness’”.<sup>77</sup> In human rights Law a breach of an individual’s rights “gives rise to an obligation to make reparation.”<sup>78</sup> As seen in the Basic Principles this grave “violation of internationally recognized human rights, sees that the state has a responsibility to make just and adequate reparation to all persons within the jurisdiction of the offending state.”<sup>79</sup> The failure to do so implies loss of state commitment to important individual (and victim) protection rights.<sup>80</sup>

Reparations are validated if we choose to recognize and protect human rights. Not only validation from past injury, but also in “the present recognition and legitimation of

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<sup>74</sup>Shelton (2005) p.8

<sup>75</sup>DeGreiff (2006) p.13

<sup>76</sup>Gillard (2003) p.531

<sup>77</sup>Falk (2006) p.497

<sup>78</sup>Gillard (2003) p.530

<sup>79</sup>Pete and Plessis (2007) p.14

<sup>80</sup>Teitel (2000) p.125

individual property and bodily security rights.”<sup>81</sup> In this same sense, Brandon Hamber expresses that:

There should not be anything in a reparations program that invites either their designers or their beneficiaries to interpret them as an effort to put a price on the life of victims or on the experiences of horror. Rather, they should be interpreted as making a contribution to the quality of life of survivors. Forward looking perspective.<sup>82</sup>

Reparations do not make violations disappear. “No matter what the motive, all reparation strategies face this intractable problem.”<sup>83</sup> Yet, they can ameliorate by aiding individuals to proceed with their lives. Through reparations, recognition and validation allow victims to reenter their communities. Even though human rights are most needed when they are under threat, the impact of rights has a deep psychological effect. Empowerment, security, and validation allow individuals to develop and prosper. Therefore duties to address violations are important to securing and protecting international human rights norms.

In the late twentieth century, there was an “unprecedented development and codification of international legal standards for the protection of individuals in the form of human rights instruments.”<sup>84</sup> Along with these treaties, was the establishment of various human rights courts and committees. Individual cases that have reached various international bodies only have the jurisdiction to address the violations presented to it. However, with each decision the general law supporting reparations evolves and is strengthened if a breach gives rise to reparation. Reparations thus become an “important part of enforcement and can play a significant role in deterring future violations.”<sup>85</sup> The general law supporting reparations is also strengthened because it has been broadly agreed that “victims of international core crimes have a right to reparations due to the injuries that they have suffered.”<sup>86</sup> The former Special Rapporteur, Theo van Boven, articulates that the

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<sup>81</sup>Ibid. p.133

<sup>82</sup>Hamber (2006) p.568

<sup>83</sup>Ibid.

<sup>84</sup>Gillard (2003) p.529

<sup>85</sup>Ibid. p.530

<sup>86</sup>Heikkila (2004) p.170

Basic Principles could be derived from international norms found in human rights, international humanitarian law, and norms in the area of crime prevention and criminal justice.<sup>87</sup> Provision of reparation has then a sound legal basis. The detailed expositions of the different forms that reparations may take would also be supported through customary usage.<sup>88</sup>

The importance of providing reparations can be seen through the needs of victims. Often the violations were of a physical nature (as seen with the amputees), and thus hinder those individuals from positively developing. “They may need long-term medical care, may no longer be able to earn an income and are likely to have lost home and belongings.”<sup>89</sup> The reparation itself does not ‘rectify’ a wrong, but a “compensated wrong is generally preferable to an uncompensated wrong.”<sup>90</sup> Context plays an important role. It is the merit of an individual’s violation that drives reparations. Reparations exist in international law. Nevertheless, individuals are subjected to various violations and their redress must be reflected on an individual’s basis. Justification for reparation will therefore be addressed in-depth in the following section. However, it should be noted that due to the nature of reparations a strong overlap between concept and justification exists.

### **3.2 International justifications of reparations**

As seen in the previous section, victim reparations have a sound legal basis through theory and practice. Nevertheless, justification does not derive purely from international agreement. Human rights is a discipline which can be justified by multiple means. Although there are many means to justify reparations, due to the thesis limitations only two will be addressed. Section 3.2.1 will look at the legal justification of reparation, and Section 3.2.2 will do the same in regards to socio political justifications.

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<sup>87</sup>Ibid. p.172

<sup>88</sup>Ferstman, Goetz and Stephens (2009) p.7

<sup>89</sup>Gillard (2003) p.530

<sup>90</sup>Freeman (2007) p.40



### 3.2.1 Legal justification for reparations

Law determines what is just in society. These are self-imposed restrictions by states and individuals determining the function of a society. Justice is administered when deserved punishment is granted in violations of rights provided by law. Reparations are essentially tools used to uphold justice. There are domestic laws determining social constructions, and international laws determining appropriate state behavior towards other states and towards individuals. There are both positive and negative rights within both frameworks. When domestic laws fail to protect individuals, international law provides a guiding framework to provide for the lack of justice. Firstly in this section there will be a brief analysis of the Basic Principles, before looking at various UN bodies' responses to reparations. These instruments are constructed and used by the international community when determining reparations.

The Basic Principles were adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005. They were initiated in 1988 by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities<sup>91</sup>, and were the result of 15 years of extensive work. The Basic Principles are “based on the assumption that, while international legal obligation in this respect are put into place in existing instruments of human rights and humanitarian law, the same obligations still find insufficient application.”<sup>92</sup> In order to re-emphasize a right to remedy, the preamble of the Basic Principles stresses that “the international community keeps faith and human solidarity with the victims, survivors and future human generations, and reaffirms the international legal principles of accountability, justice and the rule of law.”<sup>93</sup> Taking into consideration that resolutions are not binding documents, the Basic Principles do not recommend new

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<sup>91</sup>Now the Sub-Commission on Promotion and Protection of Human Rights.

<sup>92</sup>Van Boven (2005) p.v

<sup>93</sup>Basic Principles Preamble

obligations. Instead they attempt to clarify and reaffirm the obligations already set forth in various conventions regarding reparations.<sup>94</sup>

Providing reparation is based on upholding the international norm for protection of human dignity. The grave nature of gross violations of international human rights law “constitutes an affront to human dignity.”<sup>95</sup> Therefore, “victims should be treated with compassion and respect for their dignity, have their right to access to justice and redress mechanisms fully respected...”<sup>96</sup> Obligations to compensate violations, “right to remedy”<sup>97</sup> are stipulated in every human rights treaty, stressing the importance of reparations contribution to the justiciability of human rights. If there is no fall back mechanisms for victims, human rights lose their legitimacy.

The right to remedy is already an integral part of international law. It is contained in global and regional human rights treaties and other instruments. Humanitarian law instruments, as well as the statute of the International Criminal Court (ICC) make provision for reparations to victims of international crimes.<sup>98</sup> “Declarations, resolutions and other non-treaty texts adopted by the UN Human Rights Charter-based and treaty bodies also address the right to remedy.”<sup>99</sup> The right to remedy itself is constructed two fold by negative and positive obligations. Negatively the right to remedy includes the “procedural right of access to justice.”<sup>100</sup> Positively it contains the “substantive right to redress for injury suffered because of an act or acts committed in violations of rights contained in national or international law.”<sup>101</sup> Due to the nature of violations, nearly all UN treaty bodies have noted or emphasized the right to reparations.<sup>102</sup>

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<sup>94</sup>UDHR Art. 8, ICCPR Art. 2, ICERD Art.6, CAT Art. 14...etc.

<sup>95</sup>Ibid.

<sup>96</sup>Ibid.

<sup>97</sup>Shelton (2005) p.11

<sup>98</sup>Ibid.

<sup>99</sup>Ibid. p.12

<sup>100</sup>Ibid. p.13

<sup>101</sup>Ibid.

<sup>102</sup>Ibid. p.29

An example being the Human Rights Committee adopting General Comment 31 (GC 31) on Article 2 of the ICCPR on April 21, 2004, entitled “Nature of the General Legal Obligation on States Parties to the Covenant.”<sup>103</sup> Article 2 of the ICCPR addresses the obligations of the state party to the treaty, and refers directly to reparation.

To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.<sup>104</sup>

The GC reaffirms the negative and positive nature of this right.<sup>105</sup> States are also reminded in the GC para. 8 of the “interrelationship between the positive obligations imposed under article 2 and the need to provide effective remedies in the event of a breach.”<sup>106</sup> Although, effective remedy is already stated in article 2 of ICCPR, the GC also stipulates the duty to “provide for and implement provisional or interim measures to avoid continuing violations and to endeavour to repair at the earliest possible opportunity any harm that may have been caused by such violations.”<sup>107</sup> Special Rappateurs appointed by the Commission on Human Rights agree: “The right of victims or their families to receive fair and adequate compensation within a reasonable period of time.”<sup>108</sup> If the state parties do not “ensure to individuals accessible, effective and enforceable remedies to vindicate their rights”<sup>109</sup>, the obligation to provide an effective remedy is not discharged. The comment finds that remedy can also include restitution, rehabilitation, and measures of satisfaction, such as “public apologies, public memorials, guarantees of non-repetition, and changes in relevant laws and practices, as wells as bringing to justice the perpetrators of human rights violations.”<sup>110</sup> Even though many would agree that both the Basic Principles as well as

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<sup>103</sup> A general comment is not binding, yet seeks to clarify and expand on the stipulations of the treaty.

<sup>104</sup> ICCPR Article 2.3(b)

<sup>105</sup> ICCPR GC 31 para.6

<sup>106</sup> Ibid. Art.8

<sup>107</sup> Ibid. Art.19

<sup>108</sup> Shelton (2005) p.23

<sup>109</sup> ICCPR GC 31 Art.15

<sup>110</sup> Ibid. Art.16

GCs are not hard law, there are many common aspects to the approach taken towards reparations by UN bodies.

In all references to reparations in the UN there is a strong affirmation of the right of access to justice.<sup>111</sup> There is also the common stipulation that “substantive reparations are a right of victims, but that the nature and the scope of the reparations will vary according to the nature of the violation and needs of the victims.”<sup>112</sup> Providing reparations for gross and systematic violations could “overwhelm the best efforts to provide redress due to the large numbers of victims and perpetrators.”<sup>113</sup> Identification, registration, compensation procedures are all dependent on the host states ability and commitment to provide reparations. Even though, there is a “firm articulation of a legal obligation to afford adequate reparation to all victims of gross human rights violations”<sup>114</sup> remedies may have to be adjusted to achieve full effect. This in turn reinforces the weakness of the applicability of reparations. States could reject responsibility based on weak national structures to accommodate reparations. As we will see in the next section, providing reparations are not only to uphold obligations to international obligations. Reparations provide a symbolic value to states relations towards its people.

### **3.2.2 Socio political justifications for reparations**

Reparations are important for a society emerging from violence. “Reparations are a deep interpersonal and social barometer for victims.”<sup>115</sup> They serve as a ‘signal’ to victims that their grief, anger and feelings of injustice are validated by society. Reparations allow for victims to feel included in their respective society, and not sidelined or disregarded as

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<sup>111</sup>Shelton (2005) p.31

<sup>112</sup>Ibid.

<sup>113</sup>Ibid.

<sup>114</sup>Ibid. p.32

<sup>115</sup>Hamber (2006) p.571

un-equals. “Without social recognition of their suffering...they run the risk of continuing to exist only in their ‘internal world’ where it can be acute and isolating.”<sup>116</sup>

Christian Tomuschat adds that since human rights violations frequently occur in poor countries it is impossible to compensate all victims in full. The greater scope and scale of violations often means the less likely that the victims will be adequately compensated.<sup>117</sup> The poorer the country also implies that the victims are in more of a vulnerable position as often they lack government assistance or private insurances. Taking into perspective that “substantial material assistance does not ‘bring back the dead’, nor are they guaranteed to converge with, and ameliorate, all the levels of psychological pain suffered,”<sup>118</sup> repairing the irreparable may then seem like an impossible task. Yet, reparations can be viewed as a symbolic act of diverging from the past. Recognition, acceptance of past acts, and a dedication to move forward are important to change the public perception of government. Trust in government then allows for stability and development. Reparations then have a rehabilitative effect upon the entire society and not only beneficiaries.

### **3.3 Challenges for reparation programs**

Whilst reviewing the Basic Principles several potential challenges concerning their application were identified. The main requirements articulated in the Basic Principles are “adequate, effective and prompt reparation”<sup>119</sup>. My opinion is that many seen and unforeseen variables play a role in effecting the establishment of an adequate, effective and prompt reparation program. This section will analyze these 3 main principles, and what would/could be potential variables to take into account when implementing a reparation program.

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<sup>116</sup>Ibid.

<sup>117</sup>Malamud-Goti and Grosman (2006) p.546

<sup>118</sup>Hamber (2006) p.568

<sup>119</sup>Basic Principles Art.15

Adequacy of reparations is prescribed in the Basic Principles themselves. “Reparation should be proportional to the gravity of the violations and the harmed suffered.”<sup>120</sup> Terminology like “restore the victim to the original situation before the gross violation”<sup>121</sup> shapes adequacy. Loaded words such as ‘proportional’ and ‘restore’ are poignant. Yet, victims can be the only judges of adequate. Reparations achieving justice in the terms of ‘restore’ and ‘proportionate’ then seem challenging. On a practical dimension, granting victims’ justice for gross and systematic violations is a burdensome task.

As seen in the previous section, poorer income countries often have numerous human rights violations. Developing and sustaining reparations programs to Basic Principles standards can become overwhelming. States in transition from violent situations are often devastated economically and structurally by war. A massive compensation scheme during a time of transition is a difficult commitment. This is largely affected by the political will of the Government. It requires legitimate dedication and effort by the host government to institute such change. A reparation program can be political suicide for a Government in this position, because policies that have a transformative effect on the majority of the population are more favorable. Therefore lack of legitimate political will is the main challenge for establishing effective reparation schemes.

On a practical scale, the execution of an effective reparation scheme is determined by the abilities and resources the reparation program has. Funding is a major issue. Poor countries have difficulty finding funds for adequate compensation. Funds affect the quality of the administration and structures required for initiating and sustaining reparation programs. International funding may be a viable option, but often comes with strict conditions that are difficult to meet. There is also a danger of relying too heavily on donors, as could effect perceptions of national ownership. Domestic funding is determined on political will as well as economic restrictions.

The planning stage of reparations is dependent on massive investigation, identification, and administrative work. All potential beneficiaries must be identified, and verified. This is extremely time consuming and complex. Reparation staff must also be

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<sup>120</sup>Ibid.

<sup>121</sup>Ibid. Art.19

trained in taking statements, verifying information and recording findings onto a database. Problems in this stage can be double witness statements, fictitious victims, amongst other forms of mismanagement and corruption. Efficiency is dependent on practical problems that are often difficult to foresee and handle.

The implementation and execution stage has also serious challenges. Providing the benefits determined at the planning stage is dependent on outreach strategies. Beneficiaries may be in rural communities making it difficult for them to access information on payments, or have access to reparation officials. For gross and systematic violations, the system is often overburdened and overwhelmed with beneficiaries. Transparent and concise benefits may then be delayed due to procedural overloads. Therefore the exchange of information between various reparation programs to identify potential problems is essential.

Prompt reparation is linked to adequacy and efficiency. Prioritizing victims is referred to in the Basic Principles. Governments are encouraged to implement reparation programs immediately to satisfy the needs of the victims. Morally this is a plausible standpoint. However, combined with providing adequate and efficient reparations, governments have a daunting task. It would be more plausible to state that governments are obliged to avoid unsatisfactory delays and speedily move ahead with construction of the reparation program. A problem noted with the SLRP.

### **3.4 Means of assessing success of reparation programs**

There are many ways to assess reparation programs. The Basic Principles are considered to have the status of “soft law” since they are not legally binding, but constitute the beginning of a “process of institutionalization and international involvement in the issue of reparations, the rights of victims, and the design and implementation of specific reparation programs.”<sup>122</sup> Therefore the Basic Principles will be used as a valid starting point to assess reparation programs.

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<sup>122</sup>Garcia-Godos (2008) p.116

Reparations are essentially determined to be victim oriented. Therefore states, no matter the context, should have a focus on victims. Since the Basic Principles are victim oriented the focus of providing reparations should be of similar nature.

Victims should be treated with humanity and respect for their dignity and human rights, and appropriate measures should be taken to ensure their safety, physical and psychological well-being and privacy, as well as those of their families. The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation.”<sup>123</sup>

Assessing reparation programs will be based on what conditions victims find themselves in before and after the start of a reparation program. Is the program directly responsible to improving the quality of life for sufferers? Has the condition of victims improved or “restored to the original situation before the gross violation”<sup>124</sup>? In order to answer these questions there will be an assessment of the SLRP in Chapter 4, and victim conditions in Chapter 5, with a more comprehensive look in Chapter 6 at reaching “adequate, effective and prompt reparation” principles in SLRP.

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<sup>123</sup>Basic Principles Art.10

<sup>124</sup>Ibid. Art.19



## 4 Sierra Leones Reparation Program

Chapter 4 will focus on the structure of the SLRP and the proposed benefits for amputees. Before doing this SL's working definitions of victims, and reparations have to be established. This chapter will demonstrate the problems associated with fulfilling SL's legal obligations when applying international legal standards to national practice.

### 4.1 Victims vs. beneficiaries in Sierra Leone

A victim, according to the Basic Principles is:

- (a) A person who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss, or impairment of their fundamental rights, as a result of acts or omissions that constitute a gross violation of international human rights law, or serious violations of international humanitarian law;
- (b) A person, who in intervening to assist a victim or prevent the occurrence of further violations, suffers physical, mental, or economic harm;
- (c) In accordance with domestic law, a legal person, the representative of a victim, a dependant or a member of the immediate family or household of the direct victim.

A person's status as a victim should not depend on whether the perpetrator of the violation has been identified, apprehended, prosecuted, or convicted.<sup>125</sup>

The TRC report uses a similar definition based on international law:

A person is a 'victim' where as a result of acts or omissions that constitute a violation of international human rights and humanitarian law norms, that person, individually or collectively, suffered harm, including physical or mental injury,

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<sup>125</sup>Basic Principles Art.8

emotional suffering, economic loss, or impairment of that person's fundamental legal rights. A 'victim' may also be a dependant or a member of the immediate family or household of the direct victim as well as a person who, in intervening to assist a victim or prevent the occurrence of further violations, has suffered physical, mental or economic harm.<sup>126</sup>

Yet according to the TRC and SLRP, all victims cannot be the beneficiaries of a reparation program.<sup>127</sup> The violation of human rights must have been between 1991 and 2002. Abuses must have been committed on SL territory.<sup>128</sup> A reparation program is not intended to pass judgment on previous actions, but rather focus on what violations have occurred. However, ex-combatants have already benefited from several programs, such as the Disarmament, Demobilization, and Reintegration (DDR) developed in conjunction with UNAMSIL. Therefore, restoring the imbalance between benefits already assigned to ex-combatants and reparations for the victims is one of the purposes of the reparations program.<sup>129</sup> All victims must be a civilian and not a member of a fighting force at the time of abuse.<sup>130</sup> Avoiding double benefits would be essential to target the sense of injustice felt by many victims due to preferential treatment of ex-combatants.

The context and the economic reality that SL finds itself really shape what the TRC recommends as reparations<sup>131</sup>, but also uses to define beneficiaries. It is the extent of vulnerability that defines beneficiaries: Those victims “**who are particularly vulnerable** because of the human rights violations they suffered and the harm that they continue to live with.”<sup>132</sup> Five different categories of victims fell under this definition in the TRC report:

**Amputees:** Victims who lost their upper or lower limbs as a result of the conflict.

**Other War Wounded:** Victims who have become temporarily or permanently physically disabled, either totally or partially, as a consequence of the conflict, and who as a result have experienced a 50 % or more reduction in earning capacity.

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<sup>126</sup>TRC (2004) p.235

<sup>127</sup>Ibid. P.242, NaCSA (2009)

<sup>128</sup>Kargbo (2010)

<sup>129</sup>TRC (2004) p.245

<sup>130</sup>Kargbo (2010)

<sup>131</sup>Ibid. p.233

<sup>132</sup>NaCSA (2009)

**Victims of Sexual Violence:** women and girls who were subjected to such acts as rape, sexual slavery, mutilation of genital parts or breast, and forced marriages. To the extent boys and men suffered from sexual violence, they will also be beneficiaries of reparations.

**Children:** Children who suffered from physical injury, such as amputees, other war wounded or victims of sexual violence. Children who suffered from psychological harm, and war wounded.

**War widows:** Women whose husbands (civilians) were killed as a consequence of any abuse or violation and who, as a result, have become the primary breadwinners for their families.<sup>133</sup>

According to the International Organization for Migration (IOM), child victims, must have parents that died as civilians as a result of abuses, or the child must be born out of sexual violence.<sup>134</sup> It should be noted that victims who may have been severely psychologically damaged, but are not physically harmed will not receive reparation. This may be due to the lack of attention to psychological trauma throughout the country. Narrowing the victim scope in this manner serves to address the economic necessity of the most vulnerable victims. According to TRC's report the narrow scope is a direct consequence of the limited resources of SL.

The SLRP used the same categories as the TRC in its registration. This means that victim beneficiaries are defined in the SLRP on the basis of what is politically and economically feasible as a state. SLRP does not identify beneficiaries by solely their legal merit of being victims. They must be in an extremely vulnerable position. Defining beneficiaries based on vulnerability is a more political definition than a judicial definition. In the sense that politics defines priorities, for example the Government decides national budgets and policies. SL 'chose' to only provide reparation to a limited number of victims. Politically, it would be difficult for a Government in its position, to have political support if priorities and the budget focused solely on providing reparation to victims. It seems politically feasible to provide reparations to a small manageable group. In this way, SL can address needs of the most vulnerable, somewhat fulfilling its international obligations.

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<sup>133</sup>TRC (2004) p.250

<sup>134</sup>Kargbo (2010) Confusion between unspecified definitions provided by IOM and NaCSA.

## 4.2 Sierra Leone's definition of reparations

The most established definition of reparations can be found in the Basic Principles:

In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should be provided, as appropriate and proportional to the gravity of the violation and the circumstances of each case, with full and effective reparation, including the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition and prevention.<sup>135</sup>

The proposed benefits of the SLRP are rehabilitative in nature. This is because they consist of micro grants, free physical healthcare, education, and housing for the most vulnerable. Rehabilitative is the terminology the Lome Peace Agreement and TRC recommended and the SLRP implemented.

The Program will largely focus on the rehabilitation of victims through the delivery of social service packages and symbolic measures which acknowledge the past, the harm done to victims, and empower them to rebuild their lives.<sup>136</sup>

In a sense they allow vulnerable victims to continue with their lives, but do not necessarily restore “the victim to the original situation”<sup>137</sup> like stated in the Basic Principles. Rather the SLRP uses the term “restoring dignity”.<sup>138</sup> Implying that the nature of reparations provided by the SLRP aim to provide opportunities for victims to be self-sustainable. As opposed to providing direct compensation for effects of the violation.

Rehabilitative means that these social services take into account the handicapping nature of violations. Concretely acknowledging their rights, instead of purely providing symbolic reparations.<sup>139</sup>

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<sup>135</sup>Basic Principles Art.18

<sup>136</sup>NaCSA (2009)

<sup>137</sup>Basic Principles Art.19

<sup>138</sup>NaCSA (2009)

<sup>139</sup> ”Community symbolic reparations activities designed to promote communal healing and reconciliation were held in 40 Chiefdoms.”-[SL-PBF] Annual Report (2009)

### 4.3 Legal and institutional structure of Sierra Leones Reparation Program

In order to fulfill its obligations to the Lome Peace Agreement, the Government must implement the recommendations of the TRC.<sup>140</sup> The TRC made extensive recommendations for government sponsored reparation measures for the most vulnerable victims. It encouraged NaCSA to establish a sub-unit within three months of the launch of its report published in 2004, and to start implementation of the most urgent reparations within six months.<sup>141</sup> In response, a year after the publication, in June 2005 the SL Government issued a White Paper on the proposed recommendations.<sup>142</sup> Concluding that:

Will use its best endeavors to ensure the full and timely implementation of various reparations programs recommended by the Commission, subject to the means available to the State, taking into consideration the resources available to it and assistance received from the international community and the countries mentioned in the Report.<sup>143</sup>

Instead of immediate implementation of the TRC recommendations, the White Paper only expressed commitment subject to the *means available* to the state. A year later, on 8 September 2006, a government directive approved NaCSA as the implementing body of the reparations program. NaCSA is a social fund established in November 2001 by an Act of Parliament. The NaCSA Act was amended in 2009 to include a reparations program.<sup>144</sup> They were chosen because it is the governmental organization that funds projects that “promote sustainable development leading to the alleviation of poverty, reduction in the risk of renewed conflict and improvement in the well-being of Sierra Leoneans.”<sup>145</sup> NaCSA’s mandate was extended to 2018.<sup>146</sup> By allocating responsibility to NaCSA, the Government does not have to create a new organization. This would require extensive resources and infrastructure. However, not creating a new organization can imply that a

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<sup>140</sup>Kargbo (2010)

<sup>141</sup>AI Report (2007) p.22

<sup>142</sup>AI Report (2007) p.22

<sup>143</sup>Ibid.

<sup>144</sup>[SL-PBF] Annual Report (2009)

<sup>145</sup>SLIS (2008)

<sup>146</sup>[SL-PBF] Annual Report (2009)

reparations program is not deserving of much attention, or is 'hidden' in the government agenda.

The Government also established a Reparations Task Force (RTF)<sup>147</sup>, which included representatives from NaCSA, the Vice President's office, TRC, victims' associations, and civil society.<sup>148</sup> Their task was to advise on the establishment of a Special Fund for War Victims (SFWV) and the implementation of a Reparations Program in the country. The aim of creating the SLRP was to "uphold the status of victims as bearers of rights and convey the sense that it is on this basis that they are owed reparations for harms suffered, and indignities endured."<sup>149</sup> The SLRP was also intended to "reinforce Government's commitment to meeting both its legal obligations and fundamental socio-economic and human rights of its citizens."<sup>150</sup> (According to Amnesty International, there were no women, or women's organizations represented in the task force.<sup>151</sup> If true, when two large victim groups consist of women this is alarming.) In May 2007, the RTF submitted a proposal to the Government to create the SLRP.<sup>152</sup>

However, it was March 2008 before the Government in partnership with NaCSA, IOM and funded by PBF produced a project document proposing the establishment of a Reparations Unit within NaCSA using strategies and plans developed by the RTF.<sup>153</sup> In August 2008, the Government undertook a Year-One Project aimed at "building the institutional capacity needed to implement the TRC recommendations"<sup>154</sup>, and "meeting its obligation in the Lome Peace Agreement."<sup>155</sup> According to the ICTJ, strict funding conditionalities, tens of thousands of potential reparation beneficiaries, and unexpected delays meant none of the project's objectives was fully completed within the initial one-

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<sup>147</sup>Also referred to as National Steering Committee.

<sup>148</sup>Redress (2007) p.3

<sup>149</sup> [SL-PBF] (2008) p.4

<sup>150</sup>Ibid.

<sup>151</sup>AI Report (2007) p.23

<sup>152</sup>Ibid.

<sup>153</sup>[SL-PBF] (2008) p.1

<sup>154</sup>Suma and Correa (2009) p.1

<sup>155</sup>[SL-PBF] (2008) p.4

year time frame. “Nor was it ever likely or probable that they would be accomplished.”<sup>156</sup> However, the PBF Annual Project Narrative, submitted by IOM, stated that all project outcomes were fully achieved.<sup>157</sup> This implies that there is disagreement concerning the success of outputs, which will be reviewed in later sections.

Within December 2009, 29,733 were entered into the victim database, and out of the 20,107 eligible for payments, only 750 were no show during the payment window to receive the micro-grants and educational support offered.<sup>158</sup> Even though a five year strategy had been developed within 2009<sup>159</sup> the reparations program is heavily reliant upon international funding for long-term sustainability. The head of NaCSA, Commissioner Saidu Conton Sesay, has expressed concern for the future of the reparations program: “The government has the responsibility of providing these but its resources are very limited. We need external support to help the victims and to consolidate peace.”<sup>160</sup>

The reparation program was established through policy directives streamlining the activities of the SLRP into Line Ministries’ activities.<sup>161</sup> This could be cause for concern as there is no legal structure to empower these victims that fall into these categories with a ‘right to remedy’. NaCSA is a social fund. If there is no money put into this social fund for reparations, these victims have no other options for receiving reparations. There seems to be no fall back mechanisms if the SLRP fails at providing reparation. (It is also unclear if these victims could go to court to claim for reparations. As one of the reasons for creating SLRP was because the SL justice system does not have the capacity to deal with massive violations through courts.<sup>162</sup>) Victims, then, seem to be charitable objects of a development project, and lack rights to reparation. The exact opposite of SLRP’s objective to “restore

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<sup>156</sup>Ibid.

<sup>157</sup>[SL-PBF] Annual Report (2009)

<sup>158</sup>[SL-PBF] (2009) p.1

<sup>159</sup>Ibid.

<sup>160</sup>IOM (17/11/2009)

<sup>161</sup>[SL-PBF] (2008) p.15

<sup>162</sup>TRC (2004) p.229

dignity”<sup>163</sup>. In addition, it dangerously reinforces vulnerability and dependency on state mechanisms which has failed them before.

NaCSA’s mandate as a social fund ends in 2018. As SLRP is under NaCSA’s mandate, it will also end in 2018, if not extended. It is questionable if eight years would be enough time to complete the reparation program. According to Buya Kamara the Director of SLRP, 8 years would be enough time to meet emergency health care needs, and skills training. However, education and pension requires a longer implementation period flexible to individual victim needs.<sup>164</sup> A time extension could be challenging as NaCSA’s mandate can only be extended through parliament. Therefore it is reliant on the priorities of the government at that time.

Even within the eight years, reparation is reliant on the commitment of the Government to provide victims with lifetime support mechanisms through a social fund. However, the current Government has expressed keen interest to implement the TRC recommendations and especially the reparations program.<sup>165</sup> Yet even with commitment, problems of finding funding have been a grave challenge, causing delays and cutbacks. Thus, even though there might be a ‘right to remedy’ in international law for victims, as established in Chapter 3, it is unclear if SL fulfills its international obligations by relying so heavily on donor participation.

#### **4.4 Funding of Sierra Leones Reparation Program**

The biggest challenge for the SLRP is funding. Therefore, this section will look at the proposed funding sources in the recommendations of the TRC, against the current funding sources of the SLRP.

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<sup>163</sup> NaCSA (2009)

<sup>164</sup> Kamara (2010)

<sup>165</sup> [SL-PBF] (2008)p.15



#### 4.4.1 Special Fund for War Victims

Section 7(6) of the TRC Act called upon the TRC to make recommendations for the use of the SFWV stipulated in Article XXIX of the Lome Peace Agreement.<sup>166</sup>

The Government, with the support of the International Community, shall design and implement a program for the rehabilitation of war victims. For this purpose, a special fund shall be set up.<sup>167</sup>

The TRC report recommends the Government to create, collect and solicit funds for the SFWV. It should be implemented no later than three months after the handover of the TRC report, and SFWV is to be used to implement its proposed reparation program.<sup>168</sup> TRC report also recommends that contributions, financial or otherwise, for the establishment of a SFWV should be provided by Government.<sup>169</sup> Government is recommended to prioritize reparations in their budget, provide a reparations tax, designate revenue generated from mineral sources (such as according to Article VII of the Lome Peace Agreement), find donor support, seize assets from convicted persons, insist that perpetrators assist in the rebuilding, and find other 'legal means'.<sup>170</sup> The Commission stressed the importance of Government for the success of the reparation program, and is responsible of financing the measures prescribed in their recommendations.<sup>171</sup>

The SFWV was not established 3 months after the handover of the TRC report. Through bilateral and multilateral cooperation, there was effort by the Government in assisting some of the victims, yet this assistance was not carried out within the context of reparations.<sup>172</sup> On 5 December 2009, six years after the TRC recommendations, the SFWV was launched by President Ernest Koroma in Freetown.<sup>173</sup> NaCSA set up the fund, and it

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<sup>166</sup>TRC (2004) p.227

<sup>167</sup>Lome Peace Agreement Art.XXIX

<sup>168</sup>TRC (2004) p.267

<sup>169</sup>Ibid. p.269

<sup>170</sup>Ibid. p.269

<sup>171</sup>Ibid. p.250

<sup>172</sup>[SL-PBF] (2008) p.4

<sup>173</sup>Suma and Correa (2009) p.12

will serve as a basket fund to receive contributions from Sierra Leoneans and friends of SL “to serve the welfare of the war victims.”<sup>174</sup> The SFWV was not operational at the end of the Year-One Project.<sup>175</sup> Many of the recommendations and proposed reparations for victims require long-term commitment. Relying heavily upon donor cooperation is unlikely to be sufficient for the magnitude of the project.

One of the TRC recommendations was to use revenues generated from mineral sources, described in Chapter 2, however the NaCSA Commissioner says this is extremely difficult due to the nature of the mineral extraction industry. The Government itself does not mine, and there are not many companies in SL that engage in deep mining since it is a huge investment. Therefore revenues are minimal.<sup>176</sup> The Finance Minister, Samura Kamara, also agrees by stating that “falling diamond prices, decreasing remittances and imports, and drug trafficking”<sup>177</sup> leave SL facing huge socio-economic challenges. An estimated 60% unemployment rate<sup>178</sup> also reduces the chances of obtaining funding from a potential reparation tax. The only solution is Government allocating funds to SFWV via its national budget, or asks for international assistance to fulfill its obligations stipulated in the Lome Peace Agreement. This is where PBF played a vital role.

#### **4.4.2 PBF**

PBF became a major donor to SLRP providing the majority of the seed money to “catalyze the process of resource mobilization from donors for subsequent years.”<sup>179</sup> In December 2008, PBF transferred US\$ 3million<sup>180</sup> to its recipient organization<sup>181</sup>, the IOM,

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<sup>174</sup>Ibid.

<sup>175</sup>[SL-PBF] Annual Report (2009)

<sup>176</sup>IOM (18/11/2009)

<sup>177</sup>IRIN (16/11/2009)

<sup>178</sup>Ibid.

<sup>179</sup>[SL-PBF] (2008) p.4

<sup>180</sup>[SL-PBF] (2008-2009)

<sup>181</sup>Suma and Correa (2009) p.1

towards building the capacity of NaCSA into a Year-One project “to design and manage a holistic reparations program that will promote healing, peace and reconciliation.”<sup>182</sup> In comparison, Government funding towards supporting implementation of the SLRP as part of the recommendations of the TRC was US\$ 246,000.<sup>183</sup> This type of funding usually implies a 7% administration fee for the recipient organization (IOM), and administration and operation costs ranging around 15-20% for the implementing agency/service providers (NaCSA). Meaning 75% of funding will go to beneficiaries.<sup>184</sup> This was decided in the project design phase<sup>185</sup> for Year-One.<sup>186</sup> These conditions also apply for SLRP. This was to ensure that the majority of funding goes to victims.<sup>187</sup> This reinforces the perspective that SLRP is a development project. The condition of funding being “used within one year, and 75% of the amount had to be spent in direct benefits to victims”<sup>188</sup>, implies there is little government/victim control over funding conditions.

In addition, the main responsibility for funding reparations resides with Government, and as of December 2009, the PBF has made no mention of providing further funding assistance. There are several challenges to these conditionalities as will be discussed in following sections regarding the actual implementation of the SLRP.

#### **4.5 Institutional organization of Sierra Leones Reparation Program**

Due to the funding from PBF the SLRP became an international donor funded project. The PBF, IOM, and NaCSA were the main stakeholders and will be described in the following sections.

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<sup>182</sup>[SL-PBF] (2008) p.4

<sup>183</sup>IRIN (9/12/2009)

<sup>184</sup>Kargbo (2010)

<sup>185</sup>DeCataldo (2010)

<sup>186</sup>Unclear who is directly responsible for conditionalities due to conflicting statements between sources.

<sup>187</sup>Lamboi (2010)

<sup>188</sup>Suma and Correa (2009) p.1

#### **4.5.1 PBF as monitoring body**

In conjunction with the Year-One project grant of US\$ 3million, PBF has been monitoring the SLRP process and activity. On a daily basis this monitoring is the responsibility of NaCSA and IOM, with input from UNIOSIL.<sup>189</sup> The local PBF secretariat assists in providing monthly and quarterly monitoring.<sup>190</sup> Evaluations of the project will be midterm and post project, and will focus on “indicating immediate effects of the intervention on the lives of the targeted benefits.”<sup>191</sup> By monitoring the Year-One, PBF is essentially ensuring donors that the grant is used for its objective. The PBF does not create funding conditionalities, yet funds can only be directed to a UN organization. In this case the IOM.

#### **4.5.2 IOM as recipient body**

The PBF relies on the analytical, programming and implementation capacities of the UN departments, Funds, Programs and Specialized Agencies to deliver peacebuilding results within their mandates.<sup>192</sup>

IOM is the recipient organization of the \$3million dollar grant from the PBF. In conjunction with providing the grant, IOM also provides technical assistance and expertise to the SLRP<sup>193</sup> in order for NaCSA to reach project outputs. IOM was also essential in providing assistance in the verification process of victims. NaCSA staff were recruited and trained in the use of the verification framework developed with IOM.<sup>194</sup>

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<sup>189</sup>[SL-PBF] (2008) p.14

<sup>190</sup>Ibid.

<sup>191</sup>Ibid.

<sup>192</sup>[PBF] (2009) p.2

<sup>193</sup>IOM (2010)

<sup>194</sup>Suma and Correa (2009) p.5

#### **4.5.3 NaCSA as service providers**

As seen in section 4.3, SLRP is a sub-unit of NaCSA, therefore NaCSA is delegated the full responsibility of structuring and providing reparations to the victims. This includes focusing on the “rehabilitation of victims through the delivery of social service packages and symbolic measures which acknowledge the past, the harm done to victims, and empower them to rebuild their lives.”<sup>195</sup> The 4 main objectives of the SLRP are to:

1. To respond to the needs of victims;
2. To promote healing and reconciliation;
3. To restore the dignity of the victims;
4. To restore civic trust.<sup>196</sup>

Addressing the recommendations of the TRC, the SLRP will include benefits for the most vulnerable victims in the following areas: health care, education, skills training and micro-credits, pensions, micro-grants, fistula surgery, psychosocial support, housing, community and symbolic reparations.<sup>197</sup> However, these benefits are conditional to fundraising abilities of the program. So far, certain victims groups will therefore, under Year-One, benefit only from certain reparations.<sup>198</sup>

#### **4.5.4 The Year-One Project**

The Year-One Project was initiated by Government to build a reparations unit at NaCSA to fulfill the TRC recommendations of creating a reparation program, and legal obligations in the Lome Peace Agreement to establish a SFWV.<sup>199</sup> With PBF and

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<sup>195</sup> NaCSA (2009)

<sup>196</sup> Ibid.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

<sup>199</sup> [SL-PBF] (2008) p.3, Lome Peace Agreement Art.XXIX

Government funding, the Year-One Project was “designed as a catalyst to kick-start critical interventions.”<sup>200</sup> The Year-One Project aimed to provide the foundations for an institutional structure and framework that would facilitate the implementation of reparations, setting specific staffing, logistical and measurable organizational targets within NaCSA. NaCSA was also required to develop a five-year strategic plan for continued support for reparations.<sup>201</sup> A set of additional outputs were:

1. A database on profile of war victims established.
2. Government, Victims, Civil Society, donors and other stakeholders sensitized on the reparations program.
3. Special Fund for War Victims established and operationalized.
4. Reparations sub-projects for War Victims implemented.<sup>202</sup>

Output 4 included:

1. Educational support to children that were amputees, war wounded, victims of sexual violence, and abducted, conscripted, born out of rape or orphaned. (excluding those benefited by the DDR program)
2. Free fistula surgery and HIV/AIDS and sexually transmitted infections (STI) testing and treatment for those women raped according to their need
3. Free health care for all direct victims (excluding children of victims and war widows)
4. Counseling and psychosocial support for all categories of victims.<sup>203</sup>

According to the final project document the results were fully achieved. According to ICTJ’s report the results of output 4 were somewhat varying.

ICTJ reasoned that educational support was to reimburse educational expenses. Due to the long time period passed since conflict, many of the target beneficiaries would have aged out of the program. Therefore skills-training, as stipulated in the TRC report, would have been more appropriate. Yet, according to the Director of Reparations there are 6,984 children benefitting from this educational grant of \$100.<sup>204</sup>

5 victims of sexual violence received fistula surgeries, and 235 were screened and provided with financial assistance to treat various types of STIs. 49 victims with critical

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<sup>200</sup>Suma and Correa (2009) p.2

<sup>201</sup>[SL-PBF] (2008) p.6

<sup>202</sup>Ibid., Suma and Correa (2009) p.2

<sup>203</sup>Suma and Correa (2009) p.6

<sup>204</sup>Kamara (2010)

medical conditions underwent operations in Freetown.<sup>205</sup> However, it seems extremely unlikely that the number of victims benefitting from health care is reflective of what is needed. This is supported by the Director stating: “as information of free treatment disperses late registration candidates have come forward requesting treatment.”<sup>206</sup> Even though free physical health care was also in the five-year strategic plan, the Director and ICTJ agree that without sufficient funding it seems unlikely that the Ministry of Health will commit to this provision.<sup>207</sup> Hospitals are already overburdened and underpaid, and would be hesitant to provide free health care without compensation.<sup>208</sup> Community and psychosocial support activities were completed in four communities within Year-One.<sup>209</sup> Using the term ‘completed’ in the annual report in regards of psychosocial support activities seems implausible considering the nature of these traumas.

To summarize, in practice measures have been mostly directed to the payment of micro-grants. As of December 2009, 13,123 beneficiaries received a \$100 micro-grant.<sup>210</sup> Beneficiaries included amputees, war wounded victims that have 50% or more incapacity, and victims of sexual violence.<sup>211</sup> The payment period of the educational and micro-grants lasted from September 22 to October 16, 2009.<sup>212</sup> The Director states that micro-grants are provided to comply with the condition of 75% of funds to be directed towards victims.<sup>213</sup> However ICTJ believes the intention was that NaCSA wanted to “create a kind of relief to victims”<sup>214</sup>. This is also reiterated in the annual report stating: “micro grants, education support and medical assistance helped in concretely acknowledging and addressing human

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<sup>205</sup>[SL-PBF] Annual Report (2009)

<sup>206</sup>Kamara (2010)

<sup>207</sup>Suma and Correa (2009) p.10

<sup>208</sup>Schanke (2010)

<sup>209</sup>[SL-PBF] Annual Report (2009)

<sup>210</sup>Ibid.

<sup>211</sup>Suma and Correa (2009) p.7

<sup>212</sup>Ibid.

<sup>213</sup>Kamara (2010)

<sup>214</sup>Ibid.

right abuses suffered by victims during the war.”<sup>215</sup> Though, interim payments were not mentioned in TRC recommendations, which recommended pensions and social services. As one can see from the aims of the Year-One Project, most if not all targets requires long term implementation, and as we will see in the following section this will be the greatest challenge.

#### **4.5.5 Implementation of a long-term reparation program**

There are serious concerns that SLRP will not continue beyond Year-One due to severe funding shortages. “In 2010, SLRP needs a projected budget of US\$ 8million to start sustaining the achievements of 2009.”<sup>216</sup> This is almost triple the amount of funding received in 2009. As of November 2009, no other funds have been secured.<sup>217</sup> The PBF grant was “not intended to supplant national ownership of a peace process,”<sup>218</sup> and encourages the Government to find other means to sustain the reparations program. NaCSA’s Reparations Program Manager, Amadu Bangura, said they “planned to continue assistance in 2010 but were short of funds for the reparations program.”<sup>219</sup> Even though 20,000 victim beneficiaries received educational or micro-grants by the end of 2009, there is serious concern from Cristian Correa, senior associate at the ICTJ that “the government might see this as having filled its duty of complying with obligations to victims.”<sup>220</sup> Unless funds are raised beyond Year-One, many beneficiaries would receive no redress, and this in turn would reinforce their sense of injustice. Continued political will, and assistance will be essential for the Government to fulfill its obligations towards redress. However, within Year-One they have established a victim database, and started providing reparation. The

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<sup>215</sup>[SL-PBF] Annual Report (2009)

<sup>216</sup>Ibid.

<sup>217</sup>IOM (18/11/2009)

<sup>218</sup>Suma and Correa (2009) p.2

<sup>219</sup>IRIN (12/11/2009)

<sup>220</sup>IRIN (9/11/2009)



next sections present how the victim database was established, and the amputee victim group will illustrate the impact of reparation received.

#### **4.6 Establishing a victim database**

Establishing a victim database requires the registration of all potential victims falling under the category of ‘most vulnerable’ listed in section 4.1. War widows were registered, however were considered as an additional class of victims.<sup>221</sup> Providing pension to war widows was considered extremely costly due to the amount of victims, and will therefore be provided by SLRP at a later stage.<sup>222</sup> As of December 31<sup>st</sup>, NaCSA established a database of 29,733 victims exceeding the 19,000 anticipated.<sup>223</sup> The registration of victims started in December 2008, and was scheduled to end on March 31<sup>st</sup>, 2009. However, this period was insufficient, since by March 2009 only 14,017 victims registered. Therefore registration was extended until June 30<sup>th</sup> 2009, with a provision providing late registration.<sup>224</sup> This was essential for the female victim group, which are heavily stigmatized due to their traumas. Due to tight time constraints, screening and verification processes there was concern that potential beneficiaries were excluded from the database.<sup>225</sup> In addition, rural areas which were heavily affected by the war, show low levels of registration and potential beneficiaries may not have been registered.

Registration was performed by NaCSA officials trained by IOM. Information on registration was broadcasted on radio, TV and newspapers in all local languages.<sup>226</sup> Registration locations were strategically placed in all major cities, and registration teams

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<sup>221</sup>Suma and Correa (2009) p.10

<sup>222</sup>War widows might have remarried. Therefore no longer breadwinners, effecting their status as most vulnerable.

<sup>223</sup>[SL-PBF] (2009) p.1

<sup>224</sup>Suma and Correa (2009) p.2

<sup>225</sup>Ibid. p.4

<sup>226</sup>Schanke (2010)

went to rural locations to find victims.<sup>227</sup> In order to register for reparation, a photo is taken of the alleged victim and their family members, and they must give an oral testimony about what happened to them.<sup>228</sup> An applicant also has to show identification or paperwork proving he/she was wounded in the war. Amputees have formed AWWA. All members have ID cards making verification easier. However, NaCSA has provided little information on details concerning the registration process. Although, the NaCSA Commissioner has stated that “we have an obligation to protect their identity and the information they provide to us.”<sup>229</sup> However, even though the interview may have taken place in a private setting the verification process could have revealed victim identities.

Verification of victims required intensive research, because there are no conclusive statistics to work from. Verification required recommendations from medical professionals, local civil society groups, local religious leaders and women’s groups to verify the accuracy of statements.<sup>230</sup> It is unclear if they were under confidentiality agreements, yet in order to verify they would have had to confer with others. False accounts pose a threat here. Recommendations might not have been handed to actual victims, and fears of further stigmatization could play a large role in reducing the likelihood to claim victimhood, especially in regards to victims of sexual abuse. Also, it is extremely difficult to verify accounts of sexual violence several years after the incident. NaCSA has to trust victim statements in this victim category.<sup>231</sup>

Victim registration was 10,000+ victims over the expected. This implies that the Government did not have proficient insight into the extent of victims in its country. Exceeding the expected could signify that registration had great outreach success. Since the starting data was weak, there could also be more unidentified victims. However, stigmatization plays a large role in SL society and could affect potential victim candidates registering. Weak starting data could also increase the potential of fraudulent activities.

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<sup>227</sup>Ibid.

<sup>228</sup>VoA (2009)

<sup>229</sup>IOM (18/11/2009)

<sup>230</sup>Suma and Correa (2009) p.6

<sup>231</sup>Kamara (2010)

The annual project document states that the registration was fully completed<sup>232</sup>, and SLRP is now closed for registration.<sup>233</sup> It has been noted by SLRP that there are still late registration candidates. Coping with unregistered victims without abusing the system is a big operational challenge.<sup>234</sup> Therefore fully completing registration and verification as a goal of Year-One was extremely unrealistic.

#### **4.7 Amputee beneficiaries**

The TRC states that “most Sierra Leoneans agree that amputees, war wounded, women who suffered sexual abuse, children and war widows would constitute special categories of victims who are in dire need of urgent care.”<sup>235</sup> The Commission considered the fact that many of them who fall into the different categories are “enduring physical handicaps as a result of which they suffered cumulative harm both physically and mentally.”<sup>236</sup> Many are unable to “reintegrate into their communities of origin, cannot sustain themselves or their families, and are unable to tend to their medical conditions because of the high costs associated with treatment.”<sup>237</sup> The TRC recommended that reparation should seek to address the victim’s current needs, even if only putting them on an equal footing with the larger category of victims. “The reparations program aims at contributing to the rehabilitation of those victims, even if complete rehabilitation is not possible.”<sup>238</sup> From these TRC recommendations, the SLRP took its starting point. As of December 2009, victims have not had their needs adequately met according to these TRC principles. In Year-One outputs (section 4.5.4), we see various approaches taken to address the specific needs of each category of victim. However, outputs have been extremely

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<sup>232</sup>[SL-PBF] (2009)

<sup>233</sup>Kamara (2010)

<sup>234</sup>Ibid.

<sup>235</sup>TRC (2004) p.242

<sup>236</sup>Ibid. p.243

<sup>237</sup>Ibid.

<sup>238</sup>Ibid. p242

limited to funding. This section will look at the specificity of reparations to amputees, an easily identifiable and organized group with specific needs due to their disabilities.

Out of the 29,733 registered victims in NaCSA's database, 1,285 were registered as amputees.<sup>239</sup> This surprisingly low number can be attributed to several factors. Firstly this could be due to ICTJ's reason as being "explained quite simply by low number of actual victims of amputations."<sup>240</sup> During the conflict, media highlighted amputation in reports from the region, thus resulting in skewed perceptions of the amount of amputations. However, there is no official number of forcible amputations that took place, and it would be extremely difficult to calculate in hindsight. Secondly, it could be perceived that some amputees have not registered at all, although highly unlikely due to the fact that NGO's attempting to register amputees for aid estimated similar numbers to that of NaCSA. However, most notably Alhaji Lamin Jusu Jarka, the head of AWWA, believes that only 1 out of 5 amputee victims managed to survive forcible amputation, and current numbers are dwindling due to extreme poverty, suicide and high risk of disease.<sup>241</sup> Since SLRP did not start registration until late 2008<sup>242</sup> and AWWA started in 2002<sup>243</sup>, with the conflict started on 23 March 1991<sup>244</sup>, it is very possible a number of amputees died before being able to register with either organization. However, focus will be on registered amputees with NaCSA as they will be the subject of benefits.

#### **4.7.1 Definition of amputee eligible for reparation**

The criterion for eligibility in the category of amputee is that the event or injury sustained must have occurred between 23<sup>rd</sup> March 1991 and 1<sup>st</sup> March 2002. Citizens as

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<sup>239</sup>Suma and Correa (2009) p.4

<sup>240</sup>Ibid. p.5

<sup>241</sup>Jarka (2009)

<sup>242</sup>Suma and Correa (2009) p.3

<sup>243</sup>Jarka (2009)

<sup>244</sup>TRC (2004) p.3

well as non-citizens are granted equal access to reparations if they sustained injuries as a civilian during the time specified as a consequence of a violation committed against them.<sup>245</sup>

Amputees according to SLRP are defined as “victims who lost their upper or lower limbs as a result of the conflict.”<sup>246</sup> It is unclear if this definition includes persons whom were amputated due to other severe wounds attained during conflict. For example some one who was shot in the arm, brought to a medical facility and had to be amputated due to severe infection. However, if they did not qualify for amputation status they would fall under the category of war-wounded and would receive equal benefits if their injury resulted in a 50% or more reduction in earning capacity.<sup>247</sup> The TRC recommendations include also a 50% or more reduction in earning capacity is also applicable for certain benefits for amputees.<sup>248</sup> There is no data from the SLRP to verify if the same applies in their benefit scheme.

There are various types of forcible amputations that have occurred during the conflict. Forcible hand amputations are the most notable with the war in SL. However legs, fingers, toes, ears, eyes, and genitalia were also subjected to forcible amputations.<sup>249</sup> The TRC Commission “did not want to accord the same benefits to a victim who lost his/her limbs, with a victim who lost a finger as a result of a violation and may be able to sustain himself/herself.”<sup>250</sup> Therefore the Commission recommends that the **loss of an arm constitutes a 70%<sup>251</sup> reduction in earning capacity.**<sup>252</sup> Below you can see the Commissions recommendations of other forms of disabilities framing earning capacity.

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<sup>245</sup>NaCSA (2009)

<sup>246</sup>NaCSA (2009)

<sup>247</sup>Ibid.

<sup>248</sup>TRC (2004) p.248

<sup>249</sup>Victims may fall under multiple categories, for example sexual abuse victims may have been subjected to forcible amputations.

<sup>250</sup>TRC (2004) p.244

<sup>251</sup> ”In order to avoid a sense of arbitrariness in determining the percentages for the reduction in earning capacity, the Commission referred to the Workmen’s Compensation Act of 1955, in particular, the Second Schedule of the Act.” TRC (2004) p.244

**Fingers and Thumbs:**

60%: loss of four fingers and thumb of one hand;  
35%: loss of four fingers; and loss of one thumb  
10%: loss of index finger;  
6%: loss of middle finger;  
5%: loss of ring finger; and  
4%: loss of little finger.

**Toes:** 15%: loss of toes.

**Eyes:** 100%: total loss of sight;  
30%: removal of eye from socket; and  
30%: loss of sight.

**Ears:** 50%: loss of both ears; and  
7%: loss of one ear<sup>253</sup>

Everything has a percentage. 50% can be the result of one injury, or an aggregate of injuries that total or exceed this benchmark.<sup>254</sup> Since genitalia are not specified, this method creates much confusion, demonstrating a sense of arbitrariness. SLRP's definition of amputation as loss of upper or lower limbs exacerbates this weakness.<sup>255</sup> However, the Directorate of Reparations are planning and soliciting funds for the expansion of benefits in subsequent years<sup>256</sup>, but as we saw from section 4.5.5 this is not guaranteed.

#### 4.8 Reparations for amputees

TRC, from received testimonies, states that victims (in general) requested redress in the form of social services rather than individual cash payments.<sup>257</sup> According to TRC the percentages of statement-makers seeking various types of assistance and redress were:

Homes/Shelter: 49%  
Schools/Training/Education: 41%  
Hospitals/Medical Care: 27%  
Cash: 18%  
Infrastructure/Transport: 16%

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<sup>252</sup>TRC (2004) p.244

<sup>253</sup>Ibid.

<sup>254</sup>Ibid.

<sup>255</sup>There is great stigma of being subjected to genital amputation (both male and female).

<sup>256</sup>NaCSA (2009)

<sup>257</sup>TRC (2004) p.245

Materials/Tools: 15%  
Loans/Micro-Credit: 10%  
Institutional Reform: 8%  
Justice/Trials: 2%  
Religious Rites: 1% <sup>258</sup>

Therefore TRC defends its recommendation of social service based reparation, believing that it is acting in the expressed desires of victims themselves.<sup>259</sup> Reasoning that: “restoring the human dignity of a victim means helping him or her to become a fully participating citizen of society again.”<sup>260</sup> Providing a steady income, home, education and medical care can contribute significantly to the feeling of recovered dignity. Empowering, training and repairing injustices can make them and their families economically independent from life-long state support mechanisms.

#### **4.8.1 Basic reparations for amputees**

According to NaCSA’s public information leaflet, amputees are to receive free physical healthcare; education; and housing for the most vulnerable within the Year-One Project.<sup>261</sup> However, putting modalities in place to implement service delivery is time consuming. Thus, NaCSA devised a payment in Year-One to “create interim relief”.<sup>262</sup> The payment was only eligible to principle applicants approved by NaCSA, which meant that no dependent of the victims would benefit, except indirectly through victims. Grants of US\$100 were given to registered amputees that had an earning incapacity of 50% or more.<sup>263</sup> In the next section, the extent of what a micro-grant of US\$100 can accomplish in SL will be analyzed.

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<sup>258</sup>Ibid. p.236

<sup>259</sup>Ibid. p.245. Undocumented if most of the statements were provided by amputees.

<sup>260</sup>Ibid. p.248

<sup>261</sup>Ibid.

<sup>262</sup>Kamara (2010)

<sup>263</sup>Suma and Correa (2009)p.7

#### 4.8.2 An effort to create relief?

According to the annual report a grant of US\$100 supports “an effort to respond to their needs, to restore their dignity and to create relief.”<sup>264</sup> This presumes that in SL relief can be provided by this amount. As of 2008, the World Bank's threshold for extreme poverty is US\$1.25 a day (purchasing power parity).<sup>265</sup> Working from this assumption, this ‘relief’ would last less than three months, at most, if one was to live on the threshold of the extreme poverty line. With 76.1% of Sierra Leoneans living on less than US\$2 dollars a day<sup>266</sup>, and an unemployment rate at 60%<sup>267</sup>, amputees is a seriously disadvantaged victim group.

Losing limbs or a limb equals a total or severe reduction in the ability to work. Lack of income means dependency. Either this dependency is on family or charitable gestures. Immediate relief is a vague term. Victims are in varying conditions. Some victims may have dependents to provide for, others are assisted by their families, and some may have no support networks at all. Their health is also in varying conditions. This may be due to the injuries they were subjected to, or the abysmal living conditions they may find themselves in. Therefore a blanket grant of US\$100 would allow some victims to pursue possible small income generating activities, whereas others would have to prioritize their health. The lack of consideration towards external variables creates more inequality within this already disadvantaged victim group. Only victims can be the judge of what constitutes interim relief. Even so, US\$100 is not sufficient to be an agent of change. Let alone be called a form of redress for amputee victims.

To fully appreciate the need for reparations in SL, it is important to have an in-depth knowledge of victim violations and needs. Victim voices provide a necessary perspective to holistically understand implications of reparation.

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<sup>264</sup>[SL-PBF] (2008-2009)

<sup>265</sup>WB (2008) p.1

<sup>266</sup>UNDP (2009) p.176

<sup>267</sup>IRIN (16/112009)



## **5 Victim Testimonies**

Victim reparation is not an abstract concept. This chapter will provide the reader with the insight into the reasons why there is such a strong argument for reparations for the amputee victim group in SL, and to address their needs/wants as a group. There are few full victim testimonies published, and the details of the full extent of abuse are for the most part unknown. This chapter will give the voice back to victims. The testimonies in the following sections are from amputee victims whilst doing field research in SL 2009. Challenges for implementing the SLRP should be placed in perspective with regards to daily struggles of amputees.

### **5.1 Selection criteria used for interview candidates**

100 amputee victim interviews were conducted for this field research. The only criterion to be included was that the person was registered in NaCSA's victim database. Location was not relevant for interviews, however precautions were taken to include a broad victim base. Various victim organizations, and non-governmental organizations provided information on areas in which clusters of amputees resided. It was practically feasible to schedule interviews when cooperating with other organizations. Yet, locations were not disclosed to other organizations. 4 different cities dispersed around SL were used as starting points. In total interviews were collected from 10 different locations throughout the country. Time in each location was restricted due travel expenditure, personal safety and the number of potential interview candidates in each location. Prior to the interview, a verbal invitation from the researcher was extended to potential candidates a day in advanced. The interviews took place all day allowing flexibility for victims to participate.

It was essential to protect the identity of all interview candidates to the extent possible in such circumstances. Specifics such as names, dates, location, and age will not be provided. The victim statements are recorded in Krio (English derived language) and were translated into English by the researcher. The statements appear as they were described. The reader should be warned that the statements include graphic details which may be disturbing.

## **5.2 Victim statement: 1**

This victim obtained several injuries including multiple lacerations, amputation of genitalia, and force fed his own ear. Before the incident, he was a rice farmer with a sustainable income. He is currently unemployed, and lacks financial assistance to return to farming. His wife left him shortly after he obtained these injuries.

My family and I were at an old farmhouse getting ready for working in the rice field. I walk out to work, leaving my family with all the stored rice. I start working. Suddenly I hear a noise. Surrounding me is a group of rebels. I did not hear them before. I think they have not seen me. I try to think of where I could go, but just start running.

I didn't know that I was circled by rebels that were only small boys. They saw me. I try to run but one grabs me by the trousers. And they throw me to the ground. They start beating me with a machete. Shouting at me to show the location of my rice storage. I refuse, knowing my family is there.

They strip me naked. I show them the rice I collected today. They wanted to know where all the rice was stored. I still refuse. They take their machetes and they chop off my left ear. "This is only the beginning." Then shoving my ear into my mouth.

"Eat." I refused. They held me down harder. Force feeding me my own ear. I spit my ear out of my mouth.

They then hit me with the back of a gun straight into my chest. They tie my arms behind my back. Telling me that they were going to cut off my penis. I

pleaded. Begging them no. Please. No. For the sake of God please do not chop off my penis.

“We are your God.” I still refuse to show them the location of the rice, fearing for my family.

“We will kill you.” They point a gun in my neck. Another rebel starts slicing my back. Moving slowly up towards my neck. With the tip of a machete. They cut so deep. They cut straight to my esophagus. I try to struggle.

They move down to my lower body. They cut my penis off.

When they finished with me. They said, “This man will not survive when we are finished with him. He will die. Let’s go.” But they stand there. Watching me. I just lay there. Watching back at them. They make a decision. If I try to stand up they will shoot me. I make no attempt to move. They eventually leave.

I am so hungry. I start eating the sand beside me. I defecate. I fall into unconsciousness.

The next thing I know is someone tapping me. “Chief wake up. Wake up.”

I somehow manage to stand up. But no one is there. I am afraid, and start running. I try to find my wife and daughter. I see the farmhouse. But I can see it has been attacked. All the rice was gone. I don’t know if my family is alive. I start running. But I fall into the swamp. I am so hungry. I start eating mud from the swamp.

I do not know where I am. But I keep running. By now, the rebels had noticed I was gone and seen my trail of blood. They start tracking me. I have lost a lot of blood. I hear them talking somewhere behind me. But I can no longer walk. I grab at branches to try standing. I can lose nothing, they are too close.

I find a river, and fall in. The river goes red. My blood. I go down the river. I hear them searching. They no longer have my blood trail. I crawl up, and out. I hide. I still hear them talking.

“This man is around this area. Find him.” But they cannot find my blood trail. The river has deceived them.

I see the village, and more rebels. I then hear a familiar voice. The rebels have caught my brother’s wife. She was nine months pregnant. I hear the rebels arguing if the baby was a boy. I hear them cut her open. They removed the baby from her stomach. So many people are screaming. I

cannot go into the village. I will die in the bush. I lay and just listen to people crying in the village.

I was lying naked. All of a sudden a man came. I beg him to get clothes for me. Something to wrap around my waste. The man just left. Murder is taking place in the town. The rebels start burning everything to the ground. I start crawling towards the main road. People saw me, but ran away thinking that I was a rebel.

“Please don’t run away from me. Please give me something to lie down on. A mat or anything.” Someone eventually came with a mat.

“Please ask for my family. I will give you their names. If you know them please get them to help me.” I just lay on the mat. From dawn until day break.

In the morning my family found me. I was so swollen. I could not be carried. Everything hurt. Every time they touched me I screamed. I lay in the bush, because the rebels were still around. My whole body was cut.

I lay there for 7 days.

I told my family to go. I will die. I want to die.

The birds (vultures) start eating me. I want to die. I cannot. It is six miles to the nearest big city. So I just lay there trying to move, but small small.

My family told others to come bury me, but if I am still alive bring me to the city.

I saw my brother. My brother did not recognize me. I was so swollen. He thought I was a rebel.

“Please don’t fear me. I am your brother. I want to die. But I cannot. Please take me away from here.”

They find sticks and wrap them with fishing nets. They carry me on their shoulders, all the way to the city.

I was so hungry. I had not eaten. My brother buys rice. But I can’t swallow. They had cut too deep. I suck the rice. I cannot eat.

My family found Doctors Without Borders. They tell them where I am. The doctors take me to hospital. I am an emergency case. They must take me Freetown. They performed surgery. Put me to sleep. I take treatment, but I

am still in pain. They take me to an amputee camp. Keep treating my penis until it healed. It is not perfectly healed. They tell me to go home to get treated. I still have the pain. But when it is bad I go to the doctor. But it costs. I am much better now. I received a house from an aid organization, because I could not pay rent. Now I have a small farm. But I have no money.

My wife left me when I was in hospital. She wouldn't stay with me. My daughter stays with my sister in Freetown. But my nephews stay here to help me. (SIC)

### **5.3 Victim statement: 2**

This female was subjected to double arm amputation. Due to old age, she is dependent on family and charitable gestures to survive. She is a mother, but needs help to dress, bathe, and feed herself.

I heard the rebels.

I was at home. It was midday. They came so fast. My family and I tried to hide in our house. But they threw fire through the window. We ran out. They had surrounded us. Just small boys. So many of them.

They gathered us. And grabbed me.

I was first.

They pull me down to a tree stub. Stretch my arms out.

“Short sleeves or long sleeves?”

I scream. I plead.

“We will chop your arms in the middle.”

They use a machete. And chop right below my elbow. But they are not strong enough. They cannot get a clean chop. They call out to the next. I lay there screaming.

Everything is unclear. I start walking to town, with my arms dangling by the skin.

It takes many hours. Too long. When I reach a doctor, they say they cannot save my arms.

The rebels killed ten, and amputated five. I will never go back there. They burnt everything down. There is nothing there anymore. (SIC)

#### **5.4 Victim statement: 3**

This victim was subjected to forcible amputation of his arm. Prior to the incident, he had his own general store and car. Now, he begs on the street for money to feed his wife and 3 children.

I owned a shop where I sold goods. Every month I would drive many hours to Freetown to buy all the stock for the shop. I was good at bargaining. It happened when I was on one of these trips to Freetown. When I bought the goods I started driving back on the highway. I got half-way.

I saw the rebels too late. I could not turn around or they would shoot. They pointed a gun in my face. Told me to get out of the car. They took everything. My car, and everything in it. Then they took the little money I had on me. I was left with nothing. They took me to where there were others.

“Short sleeves or long sleeves?” I started screaming. Pleading. “No.”

They showed no mercy. They cut my left arm. Leaving me to die by the road. Driving away in my car. I knew I would die. I wrapped some clothes around my arm. Screaming. I walked all the way back to Freetown for help. (SIC)

## 5.5 Victim group analysis

*“I can’t be struggling and say I live in peace.”-Amputee*

Amputee victims are extremely vulnerable members of SL society. Previously, functional members of their communities, now left to beg on the streets, relying on goodwill to sustain themselves. Since amputation was carried out at random there is no specific background for this victim group. However, the vast majority lack basic education and skills-training.

There are amputee housing communities, in which clusters of amputees live dispersed throughout SL. When asked if they would return to original communities, a common response is that there is nothing there for them. Many also emphasized that common victimhood brings value to their lives. Due to their disabilities, they often feel inhuman, disregarded and shunned.

Half of those interviewed were unemployed. Due to the nature of their injuries, many are unable to do basic daily tasks remaining dependent on others. Those victims who have an income, are not earning enough to sustain themselves, continuing to live in abject poverty.

With 60% unemployment in SL, these individuals are competing for work alongside many highly skilled and physically able persons. Often they are disregarded as ‘unable’, reinforcing social stereotypes of being ‘undesirable’. Realistically, work is dependent on one's physical and mental capabilities. Work requires education and/or skills training, lacking this, there are few possibilities for these individuals to become self-sufficient.

In victims own perspectives, they would like to be provided with micro-grants to pursue capital ventures. Equipment such as tractors, sewing machines, and over all seed money to start a business was the most common request. Free secondary education for themselves and dependents was also another priority. However, the main threat to amputees beside abject poverty, is their varying health conditions.

SL is a high risk zone for infectious diseases. According the World Health Organization in SL the life expectancy for males is 37 years, while for females it is 40 years. The primary causes of death are lower respiratory infections, diarrhoeal disease, perinatal conditions, malaria, HIV/AIDs, measles and tuberculosis.<sup>268</sup> Amputees (like the rest of the population) are susceptible to these other life threatening diseases. However, unlike the rest of the population, almost all suffer chronic pain from prolonged incidences of torture and mutilation. Prolonged physical labour means that they are aggravating old injuries or contracting new injuries. In this small sample group there were five incidences of untreated severe hernias. Due to their incapability to work, or low income, they are unable to pay for health treatment, exacerbating their conditions. Free healthcare should be of primary concern for the SLRP.

When asked in the time period June-August 2009, victims were unaware of what reparations they would receive from SLRP. Every interviewee had registered, but was unaware of when or if they would ever receive reparation. All interviewees had heard of the rehabilitation packages for ex-combatants, and mentioned this as unfair treatment.

If SLRP meets the requirements of the Basic Principles (section 3.3 and 3.4) will be assessed in the following chapter.

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<sup>268</sup> WHO (2006)



## 6 Assessing SLRP

“Adequate, effective and prompt”<sup>269</sup> shapes the Basic Principles requirements for reparation. In order to see whether SLRP has managed to fulfill these criteria there has been a review of SLRP and the situation of victims.

Adequacy requires ‘proportional’ and ‘restorative’ impact of reparations. Within its first year of application, SLRP has managed to ‘complete’ registration and successfully provide educational and micro-grants. However, section 4.8.2 demonstrates US\$100 does not create relief even in the short run. Managing victim needs and expectations is a huge challenge to the SLRP as US\$100 was insufficient. As we saw in the previous section, the amputees are in an extremely vulnerable position, and in dire need of sustainable support. The SLRP has a five year strategy with extensive benefits, however severe funding shortage puts this program in jeopardy.

Effective reparation is dependent on the structure, abilities and resources of the reparation program. This is directly correlated to Government commitment to reparations. Not only verbal commitment, but by concretely rearranging budget and policy priorities. Building a strong foundation for SLRP to meet SL requirements within Year-One was accomplished due to solely to PBF funding. However, no secure funding for 2010 implies no follow up reparations, impairing SLRP’s long term ability to provide reparation.

The absence of a ‘right to reparation’ exacerbates inefficiency, as placing SLRP under a social fund enhances perceptions that SL’s reparation could be considered a development project. Sustainability of SLRP then becomes extremely vulnerable to funding, and conditionalities. Since one of the main objectives of the SLRP is to “restore the dignity of victims”<sup>270</sup>, and there seems to be no other means to seek address, victims

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<sup>269</sup>Basic Principles Art.15

<sup>270</sup>NaCSA (2009)

are left as beneficiaries of a charitable endeavor. This structure indirectly disempowers victims in lieu of restoring dignity.

As of 2010, it has been six years since the publication of TRC recommendations. Although IOM believes there might be some criticism over late implementation, they argue that the processes required to institutionalize reparations were quick considering the complex institutional dialogue and process needed.<sup>271</sup> However, section 4.3 demonstrates that there were unnecessary political delays in creating the institutional structures for SLRP. NaCSA blames delays in funding.<sup>272</sup> 6 years of delays can insinuate a lot of things. Neglect and a lack of commitment by the Government in fulfilling its obligation to provide redress can have many negative effects in a country emerging from a brutal civil war. Politically this could have implications for the maintenance of peace itself. Victims that have experienced grave human rights violations may not cooperate or respect authority if they held a strong sense of injustice or mistrust towards the Government. Arguably, reparations could and should have been implemented earlier.

It is important to remember that even though it is questionable if SL is fulfilling Basic Principles criteria, victims were and still live in abysmal conditions waiting for adequate reparations.

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<sup>271</sup>DeCataldo (2010)

<sup>272</sup>Bangura (2009)

## **7 Conclusion**

Limited access to data, which when found is often skewed, vague and conflicting, normally affect studies concerning SL. This thesis overcomes these limitations as data and viewpoints have been gathered, verified and cross referenced from all involved and affected actors. Therefore this thesis presents an unprecedented balanced, yet informative discussion and assessment of SLRP's specific reparation policies and structure. Through presenting perceptions of reparations from international law and experts, engaged actors, but most importantly emphasizing the potential impact on the persons reparations aim to empower, this thesis creates a holistic appreciation of the complex structure and processes required to construct a reparation program post-conflict.

The future of SLRP beyond Year-One is questionable. Even though SL has accepted the right for the most vulnerable victims of SL's brutal civil war to receive reparation, it has been unable to create a self-sustainable reparation program. This is mostly due to lack of funding (international and domestic), the legal and institutional structure of SLRP, and delays in concrete political action. Due to these setbacks, victims are left without adequate, efficient, and prompt reparation. The implications being that the most vulnerable victims remain deprived of their right to lead a life in dignity, which was one of the main objectives of the SLRP.

In order to legitimize human rights law there needs to be adequate practical implementation of its provisions. When a person has had his or her rights violated, they have a right to redress. This is the basis of a functioning domestic and international legal system. For societies where there are weak structural enforcement mechanisms this is extremely difficult. Even so, post-conflict SL has taken upon itself the obligation to provide redress. Accepting international standards of human rights, but also reinforcement of these standards through national policy is essential for upholding accountability. To

achieve this, SL needs to change institutional structures to ensure victims that they have a right to redress, and can in no way be perceived as a development project's charitable object.

Currently, victim beneficiaries are dependent on the political will and abilities of Government. The SL Government was unable or unwilling to protect its citizens from these violations when they occurred. Therefore in order to re-establish trust in governance, SL has to be accountable to its victims. Since the most vulnerable victims continue to live in abject poverty, lack adequate health care and education, the SL Government has a great need to fulfill its international, but most importantly self imposed obligations to provide reparation.

The implications of studying SLRP is that fellow researchers, practitioners, and others interested are able to have an insight into the practical application of the concept of reparation in SL. In addition, as more information and research is gathered on this topic a more meaningful discussion regarding reparation in SL will emerge. However, this thesis also provides a practical example for others concerned with the intricacies involved with providing reparation in other post-conflict settings. External as much as internal factors play a large role in affecting an outcome desirable to international standards. Even though providing reparations in post-conflict settings is difficult it should be remembered that reparations are not just an ideal, they are necessary for assisting and sustaining victim rights. If a country as disadvantaged structurally and economically as SL can make meaningful and concrete steps to providing reparations, it should be an example to others.

By reading this thesis, donors and potential donors have the possibility of having an unbiased look at the accomplishments and challenges facing the SLRP. Also, this thesis provides insight into unforeseen yet manageable challenges, giving donors the ability to fully understand and change their impact in order to create a sustainable reparation program. Therefore international cooperation is called upon to assist SL in meeting its legal obligations as reparations are an integral part of its transition to peace. Reparations, amongst other things, re-establish trust in government, but most importantly allow victims to become fully participating members of society again.

SL has to demonstrate genuine interest in implementing reparation by finding sustainable funding to secure the future of SLRP, whether these are domestic or international sources, in order to create a credible reparations program. Only when victims' needs are properly addressed, can SL move forwards from its brutal civil war and call itself accountable to its citizens. It should be noted that SL has in fact taken meaningful steps to actualizing reparation for its victims. However, as we have seen throughout the thesis, good intentions have limitations.



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|------------------|--|
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| CAT              | Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, U.N. Doc. A/39/15 (1984); (Adopted by the General Assembly on 10 December 1984.)  |
| ICCPR            | International Covenant on Civil and Political Rights (Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966).  |
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ICERD                      International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195; (entered into force Jan. 4, 1969.)

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## **Annex**

### **Additional Victim Testimonies**

#### **Victim statement: 4**

This is a victim of a forced double hand amputation. Before the incident he had a reputable occupation and steady middle income. He has 3 dependents, and currently survives by begging for money from old and new acquaintances.

In the middle of the day the RUF came to our house, knocking on our door, “Open”, and I could not open, I was amazed, discouraged, wondering if to open the door or not. They knock again, on the third knock now; I opened the door, immediately he said if I did not open the door he would fire at us. So I opened the door.

Immediately he said, “Get of this house. Come out, come out.” We came out of the house, and he saw my daughter. She must have been eight by then. He said to my daughter, “I came with my wife and children and they were killed. So I will take you as my wife. So take my bag and follow me now.” She said “Wait for me, let me take my slippers.” And she went through the parlor. So, I tell her to escape through the window. She did, and I came back and met the rebels. I told him I could not find my daughter. The rebel responded by saying, “If I do not see your daughter I have no other reason but to shoot you.”

I said, “Don’t shoot me sir, I am going to find my daughter.” So I started pretending as if I was looking for my daughter between the chairs. Immediately, I turn around and to try and get rid of his weapon. Then we started fighting. We struggle for thirty minutes, while my wife is screaming, “I beg you, I beg you, I beg you please.”

I am unable to remove his weapon, but I knock him on the front. I then run and jump through the window and try to find my way through the bush. Then his rebel colleagues got hold of me and held me as a prisoner, and took me to

a fallen mango tree trunk where I saw so many of my neighbors gathered at gun point.

We were told to line up. I was the third person in line. The first person had his hands amputated on the tree trunk and shot. The second person had his hands amputated on the tree trunk and shot. Then I was told to get down.

While I was held down I was crying and crying telling them “you are my brothers”. He said “I am not your brother, If you were my brother you would of joined the West side boys (rebel group).” So they said “Spread your hands on the trunk of the mango tree.”

They chopped one of my hands off, and then the other.

I started screaming and crying. One of the rebels said “finish him”. And another rebel said, “That man could not be a survivor, let us not waste our cartilage on him.”

I crawled and fell onto my veranda, laying there for five hours, until my wife and daughter came.

My wife took some cloth and wrapped my hands to try and stop the bleeding, but there was too much blood. She took some more cloth, and tried to stop the bleeding, but nothing was helping.

We start walking to find a hospital, but the rebels were everywhere.

At that time I did not know if I was in this world or the next world. So we walk to Kissy (another part of town), and we had no food and no medical attention, because when the rebels came they took all the medicine from the doctors. So we stay there unattended for five days. Then we walk to the Ecomog (West African peace keeping force) base to try and get treatment. They performed surgery on my hands and I was in hospital for 3 months, and took us to the National Stadium (National Football Stadium) where Ecomog had set up an internally displaced persons camp for people from all over Sierra Leone trying to escape from the rebels. We stayed there for 2 months.

I used to have a good job. Now I ask old friends for help. (SIC)

#### **Victim statement: 5**

She was subjected to gang rape and forcible amputation of her arm. Before the incident she was in school. Now she has a husband and 3 dependents.

I was very young.

It was the middle of the night when the rebels came.

They threw fire into our house.

To make us leave.

There were people screaming.

They grabbed me. And raped me over and over again.

They wanted me to be a wife. A bush wife.

I screamed. They chopped of my arm and left me to die. My family thought I was dead. I was thrown with other dead people. But someone found me. I survived.

Now I am married, and have children. I want them to have an education.  
(SIC)